App. F. IX-4

Previous References.

Legis 37-36-1

1942-43
Legis

File No. 6-

Serial Nos.

ater References.

423

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

A
Part B for Jul 42

SUBJECT.

The Mysore Debt conciliation Amendment Act 1942

(With LR 202-39 Sls 3, 4 etc upto 12

To

The comptroller Mysore etts
1750 RL 100 Legis & 12
directs the publication of the Act
in the Gazette

General and Revenue Secretariat | File No. | of 193 | [App. F. III–2

Serial No.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, 13th July 1939.

No. 9488-9/Ec. 5-39-2

SECRETARIAT
No. 2443
14 JULY 1939
REVENUE BRANCH

From

The General Secretary to the Government of His Highness the Maharaja of Mysore

323

To

The Revenue Commissioner in Mysore, Bangalore.
The Registrar of Co-operative Societies in Mysore, Bangalore.

Sir,

I am directed to state that in the course of general discussion on the Budget in the Representative Assembly in June 1939 the Second Member of Council promised that arrangements would be made to provide for the Debt Conciliation Board / Land Mortgage Bank in Kunigal Taluk and to request you to kindly investigate the question and forward a report in the matter at an early date.

I have the honor to be,
Sir,
Your most obedient servant,

Hanumantha Rao
for General Secretary to Government.

TRM.4

Copy to Rev Branch for information and further action 14-7-1939

1) Reg reply will be awaited.

Subject
14/7

Secretariat. File No. 84

Serial No.

OFFICE OF THE FIRST MEMBER OF COUNCIL
NOV 30 1939
No. 5190

From The Re.

C. 338/39-40 Dy 4/11/39

Forwards copy of letter from the DC Tumkur suggesting that the Debt conciliation Scheme may be extended to places in the District where there are Land Mortgage Banks and recommends that, if it is the intention of Govt. to introduce the Scheme into Some more Taluks, the question of introduction in Kunigal Taluk may be considered.

3) A provision of Rs 3000/- has been made in the current year's budget (App. B. page 125) for the extension of the Debt conciliation Scheme.

4) In para 18 of the linked file the First Member has observed that the question of extension of the Scheme to Navigunda & Tiptur might lie over. That an officer is proposed to be deputed to study the workings of these boards.

Submitted for orders whether the question of extending the Scheme to other Taluks may lie over for the present.

Initials 29.11.39

6) May be seen with the Scheme is examined further

29/11

7) Chief Secy (for member)

29/11

8) Mr B. R. Ramamurthi may see Please on special duty for a month to study this question in all its aspects &

Draft Sent

Minister 12.39 Nothing Secret 10) For appr.

1st member 11)
Secr...

12) 12-12-39

To the Rt etc.

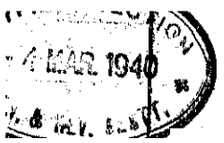
R 3807-18 | 18.12.39

Places Mr. [illegible] Secy. to govt., on special duty to enquire & study the working of the Delft consultation Boards & submit a report.

Submitted

took charge of my special work on the 1st of February, 1940, and I have since made enquiries at Sagar Shimoga, Madhugiri, Narasimharajapu Koppa, Chikmagalur, Nagamangala and Mandya regarding the working of the Debt Conciliation Act. Only two places remain to be visited, viz. Devanhalli and Chikballapur, and I ha fixed up 3rd and 4th instant to visit those places. The drafting of the report may require about 10 days. In these circumstances I request that the term of my special duty (along with the staff) may kindly be extended till 16th March, by finish the work.

1) Sent. with a draft
4.3.40.



2) The amount seems agreed
to after consultation with

3)

To The Rt. Hon'ble
R. 5264-6 dt. 6.3.40
Extends the period of Mr. B.K. Ramakrishna
Asst. only up to 16th March 1940.

Letter No 112/D.S. B. dt. 25.2.40 from
Mr B.K. Ramakrishnaiya (on Special Duty)
submits
his report on the working of the Debt-conciliation
Scheme in the State
Note to be perused and Govt. finally communicated

26.3.40.

1st. Meeting

20) Secy. No special duty
may submit this in person to me

31/3/

Mr Ramakrishnaya has taken great
care to study the working of the
Debt Conciliation Act and has submitted
a clear and interesting report dealing
with some of the causes which account
the somewhat meagre results so far. It
the report may be published for general
information and suggestions and the Registrar
the Coorgs Head Dept may also be
On receipt of these we may consider
the question of introducing an amending
or of appointing a small Committee to
examine the matter

Yrs

Devan

Hon'ble Mr.

General and Revenue Secretariat

the Debt Conciliation Act in the Sta

L.R File No. 323 of 1939. 397 5160 [App. F. III-

20) A DT. Letter to the Registrar, High Court, in (
Gn.
R.T.61

47) Since the
31)

No 2:

Printed No. R. 6799-810 / L.R. 323-39-17. d. 22.8

To the R. C.
" Registrar of Co-operative Societies
" Dcs of Districts
" Councils Mysore Belgaum
Presidency

Publishes the report for the information of the public and the suggestions from public and the concerned heads of Depts.

No. R.105 dated. 26.7-40

The Registrar, High Court

Requests in favour of obtaining the views of the judges of the High Court on the same points dealt with in the report and forwarding the same to Govt.

28) The suggestions so far received from the public are noted for record & information. The response has been very meagre. The suggestions are from the following

(1) Some Coorg Planters
(2) Mr. B. R. Sundaram Aiyangar M.L.C
(3) M.K. Venkataramiah K.L.7

File No. 323 265 of 1939.

and (4) Mr M. S. Ramachandra Rao Pantulu

29) The Views of the D. C., R. C. & the Hindu Boards are awaited

17.7.1940

Shri, Secy 30)

1st member)

31)

MK 18.7.40 Dr

MK 23/7 / Ca

MK 23/7

Please remind them both by 29.

33) Draft reminders to the Hon. D. C., Registrar Co-op. + Govt. are submitted for appl

Secy 26/7/40

34) Hon Secy 26/7

Issued No. R. 980-91 of 27.7.40.

To the R. C.
" Registrar, Hindu Court
" Registrar of Co-operative Societies
" Dts of districts.

Request them to expedite the submission of their views

Letter dated 15.7.40 from Mr. M. S. Ramachandra Rao.

Letter d. 14.7.40 from Mr. B. R. Puttaswamiah M.A.

Letter of 12.7.40 from Mr. K. Venkataramiah

Serial No.	
30	Letter No. A_3 C. 4391/39-40 d. 30.7.40 from the D.C. Chitaldrug district forwarding his views on the Special officers report.
31	Letter No. C. 310/40-41 d. 31.7.40 from the D.C. forwarding the views of the D.C. Kadur district
32	Letter No. A_2 C. 4541/39-40 d. 23.8.40. from the D.C Shimoga district.
33	Letter No. A.I C. 284/40-41 d. 29.8.40 from the D.C Kolar district
34	Letter No. L. Dis. A. 7. C 55/40-41 d. 30.8.40 from the D.C. Tumkur district
35	Letter No. B. Dis C. C. 74/40 d. 1.9.40 from the D.C. Hassan district.
36	Letter No. 3086 d. 18.9.40 from the Registrar of Cooperative Societies in Mysore.
37	Letter No. B1-40-41 d. 16.9.40 from the D.C Bellary district.
38	Letter No. A1-103/40-41 d. 28.9.40 from the D.C. Mandya district.

File No. 325

Letter No. C. 265/40-41 dt. 23-10-40 from the R. C. furnishing his views.

Letter No. DI-468/40-41 dt. 28.11.40 from the D.C. Mysore

Letter No. R.O.C. 33/40-41 d. 19.12.40 from the Registrar, High Court of Mysore, forwarding the views of the judges of the High Court.

35) A. Note on file

20/1/41

Chief Sec'y

36) Please put up a tabular Statement of the recommendations made and the views of the D.C.s, Commr. & the other officers consulted.

22/1

A tabular statement as ordered above is submitted herewith. Submitted

27.1.41

Chief Sec'y

27/1

38) For orders on the Statement.

1st member)

1/2/41

39) 1/2/41

1/2/41

40) Draft Govt. for consideration

Chief Sec'y

11.2.

1st member)

CHIEF SECRETARY
28 JAN. 1941
GOVT. OF MYSORE.

The opinions received from the Dy. Commrs of Districts, the Rev. Commr., the Registrar of Co-op. Societies and the Judges of the High Cou are submitted for perusal. It is somewhat disappointing that in an important matter like this no opinions have been received from the non-official public except from Messrs. B.R.Put nanjappa, one Mr. Venkataramiah of K.G.F. and from Mr. M.S. Ramachandra Rao, retired Senior Asst. Commr. Some suggestions purporting to b from the public of the same type have also been received.

The Dy. Commrs. have generally agreed with the recommendations made in the report except to the extent indicated below:-

The Shimoga Dy. Commr. suggests that proce fees might be waived, that agreements may be registered free of charge, and that it is not desirable to appoint ~~divisional~~ officers as Chairman The Dy. Commr., Hassan, is not in favour of excusing the stamp duty leviable on agreements and he is also not in favour of the provision for appeal or revision against the Board's decisions. The Rev. Commr. is generally in favour of the proposals made in the report except as regards the appointment of judicial officers as Chairmen.

The Registrar of Co-op. Societies is also in agreement with the proposals made except in egard to the following matters:-

(1) Lowering the minimum of ~~xxxx~~ loan payble by Land Mortgage Societies to Rs.100/- o: aising the maximum limit above Rs.500/-;

(2) ~~The~~ appointment of judicial officers s Chairmen;

(3) The amendment of the second proviso o section 14 of the Debt Conciliation Act to liscriminate between society and society.

The other non-official opinions are genera in agreement with the proposals made in the eport.

The following are some of the other suggestions made by them:-

(1) Section 14 should be amended so as to make the settlement of the Board ~~x~~ binding on all creditors irrespective of the consent of 50 per cent of the creditors.;

(2) The rate of interest should be reduce to 4% simple interest;

(3) The principal debt should be made repayable in small instalments extending over a large number of years, and if owing to circumstances the debtors should be unable to pay th instalments fixed by the Board, further grant time should be made to pay the debts.:

(4) The Board should be empowered to review the decrees already obtained and examine the documents and afford relief in suitable cases.

The Judges of the High Court have also generally agreed ~~about~~ in regard to the most important issues raised in the report.

The most important point that has been discussed is whether the Debt Conciliation Act may be continued or whether ~~it is~~ in its place another Act should be enacted providing for compulsory scaling of debts as has been done in other parts of India. The Special Officer has for reasons explained in his report considered that a complete adoption of compulsion is not immediately necessary or advisable and that some strengthening of the element of compulsion is however called for to deal with the recalcitrants, this being done in such a manner as not to come into conflict with the under-lying principle of voluntary conciliation. Practically all the opinions received have favoured this suggestion except Mr. Justice Abdul Ghani who feels that the present Act should be repealed and replaced by a Debtors Act of the kind in force elsewhere. There is a unanimity of opinion that Section 14 of the Act may be amended so as to empower the Board to pass an order directing an unwilling

creditor to accept a fair offer by the debtor where creditors to whom more than 50 per cent of the ~~xxxxxxxx~~ debtors have agreed to come an amicable settlement. In this connection the Special Officer have discussed at para 36 the report the general feeling that the distinction now made in the Act between a secured and an unsecured creditor should be removed, and has suggested that by a suitable amendment of section 14 by permitting the existing ~~xxxx~~ mortgages ~~from~~ lien or charge to subsist ~~and~~ secured creditor agrees to a settlement, it would be possible to make ~~even~~ secured creditor agree to the settlement. This view has found general acceptance.

(2) The next important question which has been considered is as regards the Chairman, the strength, quorum and vacancies in the Board. In regard to the Chairman of these Boards, a gestion has been made in the report that it is desirable to appoint wholetime judicial officers as Chairmen in some selected Boards at least. This view has been generally opposed by the Dy. Commrs. and the Rev. Commr. and also by a few Judges of the High Court. The reason for their holding this view is that the executive officers are likely to be better ~~xx~~ able to influence the creditors than judicial

The Chief Judge however considers that the experiment of seconding a few experienced munsifs as full time Chairmen of Conciliation Boards might well be tried as they are likely to be very successful Chairmen. He is also of the view that a seconded munsif should be appointed Chairman of several Boards in order that he might be fully employed.

As regards the strength of Boards there is a general agreement that the present strength is all right and need not be added to.

Opinion is generally unanimous that irrespective of the pecuniary status of the debtors all should be eligible to come within the purview of the Debt Conciliation Act. The Specia Officer has suggested that the following debts should be excluded from the definition of debt:

(1) Claim for maintenance either under a decree of court of otherwise;

cess or payment due to Municipality Village Panchavet or other local authority.

While all others have agreed to these exemptions Mr. Justice Abdul Ghani considers that the ~~maintenance charges~~, tax, cess or payments due to local bodies need not be excluded from the definition of debt.

the Rev. Commr. have no objection to the proposal, the Judges of the High Court and a few of the Dy. Commrs. are strongly ~~of the opinion that they are~~ against making any such provision

As regards permitting lawyers to appear before the Boards, the Chief Judge is of the opinion that there do not appear to be sufficient reasons for interfering with the existing provisions in the Act, while three other Judges are of the opinion that lawyers may be excluded from appearing before the Boards

Practically all have agreed with the Special Officer's views in regard to the restrictions to be placed on the debtor in the matter of his filing successive applications, the setting aside of alienations effected by him within 18 days of his filing an application before the Dy. Commr.

The other points raised in the Officer's report about which there is general agreement do not call for any special remarks.

R 25/15 The Dewan Constitute Rd

Serial No.

9463
26.3.41

2nd Member) 43) 26/3/41 31.3. 1.4.41

M) A.D.P.N. is subst draftd

45) 7

Chief Sec 46) 7.4.41

Signed (Dr member) 47) Kept in A-D.

7 APR. 1941 GOVT. OF MYSORE

OFFICE OF THE FIRST MEMBER OF COUNCIL APR 7 1941 No. 10326

8/4/41 (48) S. N. put up.

DEWAN 8/4/41

Final Note by the First Member of Council.

Subject. —

Report of Mr. B.K.Ramakrishnaiya on the working of the Debt Conciliation Boards in the State.

The scheme of Debt Conciliation was brought into effect in the marginally noted taluks and Conciliation Boards were set up in these taluks with effect from lst July 1938. From the reports of the working of the scheme it was observed that the results were not sufficiently encouraging. Various defects and omissions were also brought to the notice of Government and several suggestions for the improvement of the law in the matter were made in the Representative Assembly so that the measure might prove to be really beneficial. In these circumstances, Mr. B.K. Ramakrishnaiya, Assistant Secretary to Government, was placed on special duty to examine the working of the scheme in all its aspects and submit a report to Government indicating the defects, if any, and suggesting the lines on which action might be taken so that the object of the scheme might be more fully realised.

Chikballapur,
Madhugiri,
Devanhalli,
Nagamangala,
Sagar, and Koppa,

Mr. Ramakrishnaiya submitted a detailed and exhaustive report which was published for general information and criticism The views of the Judges of the High Court, the Revenue Commissioner, the Registrar of Co-operative Societies and the Deputy Commissioners of Districts have also been obtained on the proposals made therein. After examining the opinions received, a draft order has been prepared indicating the extent to which the recommendations of the special officer may be accepted. This has been agreed to by the Dewan and the Second Member of Council and is now submitted for the gracious approval of His Highness.

N. M. Shamu Rao

MEMBER OF COUNCIL.

Bangalore,
8th April 1941.

Submitted to His Highness.

I submit herewith a Final Note by the First *Member of Council on the subject of* the report of Mr. B. K. Ramakrishnaiya on the working of Debt Conciliation Boards in the State,

for His Highness' gracious approval.

Mirza M. Ismail

Dewan.

Mysore,
9th April 1941.

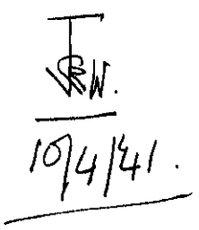
Record of Cases submitted for the Orders of His Highness the Maharaja.



Subject.

Report of Mr. B. K. Ramakrishnaiya on the working of Debt Conciliation Boards in the State.

Order.



neral and Revenue Secretariat.

N.J. 208.

2715 R

SUBJECT:—

Report of Rao B. K. Ramakrishnaiya on the working of Debt Conciliation Boards in the State

(*)

31. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Members of Council for perusal of His Highness' orders before/after issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.) (*)

Chief Secretary to Government.

Through the Secretary to Government,

..... Department.

10661
17.4.41

FIRST MEMBER OF COUNCIL.

17/4/41

A481
17.4.41

SECOND MEMBER OF COUNCIL.

20.4.

Rev. Branch.

21/4

21/4

22 APR. 1941 REV. & REV. SECTT.

WD 02010—GPB—250—19-3-41

6187/40 2715-1/2642

Report on the working of the Debt Conciliation

General and Revenue Secretariat — File No. 323 of 1940. — [App. F. III-2

Serial No.	
42	No. 7219-68 dated 24.4.41

To

The R.C. in Mysore.
" D.Cs of districts.
" Registrar of Cooperative societies,
" Registrar, High Court.
" Other heads of depts.
" Comptroller.

Press table.

Passes orders on the report.

(1) Action has been taken to amend the Debt Conciliation Act to give effect to the above orders. The provisions of the Bill have been referred before the R.A & the Bill has been forwarded therefore the L.C.

(2) A draft of statement containing the provisions is invited for orders. The Bill has to be examined in the Law Dept

Law 29/4/41

(Closing Secy) 50) The statement of objects & reasons as well as the draft may be kindly sent in the law dept

Law dept With Compts 51)

MS 29/4/41

Hm 30/4/41

3 30/4/41

SECY. LAW DEPT. 30 APR. 1941 GOVT OF MYSORE 30/4

58) The Bill has been put in proper form.

59) The provision enabling a Board to function in spite of vacancies has been put in the form of a separate sub-section (3 (4)).

60) The power to dismiss an application on the groun of fraudulent transfer is limited to debtor's applica tions. This has been made clear.

61) An order by a Board directing an unwilling credi to accept a fair offer should also be registered if the other provisions of the Act should apply. Necessary changes have been made in 14 (2). 14 (3) of the Bill.

62) The second proviso to section 14 has been omitted and the necessary provision in this behalf that a creditor who is not a party should not lose his rights on the secured property has been incorporated in a new clause 14 (6) of the Bill.

63) Apart from these changes the Bill does not appear to require any modification.

64) The statement of general principles xx put up in the file may be approved.

65) Another point on which the draft of the administrati section has been altered is in respect of joint debts (proposed section 4A). Reference to joint family debts has been omitted as the Report of the Special Officer and the Government Order thereon are silent on this point.and this section is confined to joint debts only.

Law Secretary) 66) I agree 13 12/5/41.

Chief Secy) 67) m/c Hon 14.5.41.

13 14/5/41

Serial No.

6147 Amendments to the Debt Conciliation Rules

68) A draft Bill to amend the Debt Conciliation Act (to implement the orders issued on Mr B. N. Rama Krishnamraju's reports) together with a statement of objects & reasons is sent for kind approval. This with the enclosed has been submitted to the Dewan & 2nd Member of Council & orders of H.H. for introducing the principles before the R. A. & the Bill before the L.C. will be obtained in due course.

69) In the meanwhile a copy of the Bill with be sent to the Secy L.G&R.A. for necessary action

15.5.41

1st Monday

70)

16/5/41

16/5/41

71) for kindly taking a copy of the statement & the Bill for further action & returning the file for action[illegible] on above

17.5.

17/5

72) The file may kindly be sent through the Protection Branch.

17/5

Asst Secy Rev W.E.

17/5

Land M.

OFFICE OF THE FIRST MEMBER OF COUNCIL
MAY 15 1941
No. 1824

D.2568 6187

File No. Mysore Debt Conciliation (Amendment) Bill of 194 R3647

General and Revenue Secretariat

Serial No.

The Bill has been scrutinised in the Law Section. It is in proper form. If approved Copies will be sent to the Rev. Office.

15/5/41

BKR 19.5.41

Rev. Office for kindly taking the Copies & returning the file.

JMM 19/5

19/5/41.

76) Copies have been taken & the file will be returned to the Protection Branch.

Protection Branch

19/5/41

77) The file will then be returned (if approved) to the Rev. Branch for taking further action as suggested above and & when the file to the Legislation thereafter.

20/5/41

78) Yes BKR 20.5.41

Rev Br)

79) The papers may perhaps be submitted to the Dewan & the Second Member of Council & thereafter a final note will be put up

by

Secretary 20/5/41

Sec 2nd member Dewan 80) 21.5 MK 20.5.41

21/5/41

81)

22-5-41

MK 23/5/41

23/5

20 MAY 1941 OF MYSORE.

OFFICE OF THE SECOND MEMBER OF COUNCIL. 21 MAY 1941 No. 1916

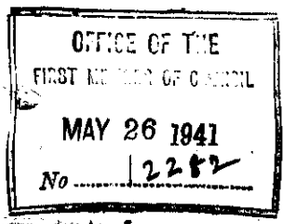
Bill to amend the [illegible]

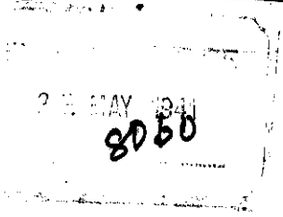
3642

Act, 1937.

eneral and Revenue Secretariat | LR File No. 3a 3 of 1939. | [App. F, III-2

Serial No.





80) A D.F.O. is noted.

26/5/41

26/5/41

Mr. Menon)

Signed 4 is placed below.

26/5/41

S. N. put up.

DEWAN)

27.5.41

Final Note by the First Member of Council.

Subject.—

Amendment of the Debt Conciliation Act, 1937.

With His Highness' gracious approval, orders were issued on the report of the special officer appointed to examine the working of the Debt Conciliation Boards in the State. Action has now to be taken to amend the Debt Conciliation Act to give effect to the above order. Accordingly, a draft bill together with a statement of objects and reasons has been prepared and it is proposed to consult the Representative Assembly on the general principles and to place the bill before the Legislative Council.

The bill and the statement of objects and reasons have been agreed to by the Dewan and the Second Member of Council. Gracious sanction of His Highness is solicited for placing the principles of the bill before the Representative Assembly at its ensuing session and for introducing the bill in the Legislative Council.

M. Venkatarama Rao

MEMBER OF COUNCIL.

Bangalore,
26th May 1941.

Submitted to His Highness.

I submit herewith a Final Note by the FIRST *Member of Council on the Subject of* a Bill to amend the Mysore Debt Conciliation Act, 1937, *for His Highness' gracious approval.*

Mirza M. Ismail
Dewan.

Bangalore,
27th May 1941.

Record of Cases submitted for the Orders of His Highness the Maharaja.



Subject.

Bill to amend the Mysore Debt Conciliation Act, 1937.

Order.

28/5/41

General and Revenue
Secretariat.

SUBJECT :—

Bill to amend the Mysore Debt Conciliation Act 1937.

(*)

31. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Headquarters and then sent to the Secretariat concerned for the issue of orders.

(*) Circulated to Members of Council for perusal of His Highness' orders before/~~after~~ issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.) (*)

M Visvesvaraya
Chief Secretary to Government.

Through the Secretary to Government,

.....Department.

(1) FIRST MEMBER OF COUNCIL.

1/6/41

1206-38
31.5.41

12472
2.6.41

(2) SECOND MEMBER OF COUNCIL

2/6

Rev. Branch.

3.6.41

REC. 3 JUNE 1941

WD 02010—GPB—250—1938-41

Bill to amend the Mysore Local Boards Act

Serial No.

Submitted. The file will now be sent to the Legn Section for reference and return when done with. Ref para 4 supra of the order.

BKR 4.6.41

Legn Section

4/6/41

Submitted for orders as to who will be in charge of the Bill in the Assembly.

BKR 4/6/41

4.6.41

Law Secy)

The Chief Secy may be in charge of the Bill.

Chief Secy) W.C.

4/6/41.

I have no objn.

BKR 5.6.41

MS 5.6.41

Legn Secy

Legn Secy)

under rule 36 of the Mysore Legislative Rules, the Dewan may order the publication of any Bill in the Gazette although no motion has been made for leave to introduce the Bill and in that case it shall not be necessary to move for leave to introduce the Bill. Submitted for orders whether this Bill may be published under this rule.

May be done BKR 6.6.41

The Bill merely carries into effect and implements the Government order on the Report of the Special Officer

NOTE—Contn. She

CHIEF SECRETARY. 5. JUN. 1941 GOVT. OF MYSORE.

Debt Conciliation (amendment) Bill 6187 P.

File No. of 194 | General [redacted] Revenue Secn. [redacted]

Serial No.

appointed to examine the ~~scheme~~ provisions of Debt Conciliation. There may therefore be no necessity perhaps, to refer the Bill to a Select Committee, unless any members moves an amendment ~~to that effect~~ under ~~Rule~~ S.O. 31 (2) (a).

If the Bill is ~~not~~ ordered to be published under rule 36, the following motions are suggested for inclusion in the agenda of the L.C.

1. Motion that the Bill published under rule 36 of the Legislative Rules be taken into consideration by the Council at once.

Mover: Minister for Finance and Revenue

Seconder: Chief Secretary to Govt.

2. Motion that the Bill be passed.

Mover: Minister for Finance and Revenue

Seconder: Chief Secretary.

Submitted for orders.

8432

SECY. LAW DEPT. 7 JUNE 1941 GOVT OF MYSORE

6.6.41

Law Secy)

Minister for Finance)

Hon'ble Chief Secy)

Dewan)

Hm 7/6/41.

MS 8/6/41

8.6.41

8.6.41

1269/ 8.6.41.

A copy of the Bill may be sent to me

Hm 9/6/41.

Self Conciliation (Amendment) Bill.

General and Revenue Secretariat
R. A. & L. C.

File No. 2520/41 of 194

App. F. III-2

Serial No.

The Bill is ready in the Rlt. Dept for orders as to who should be in charge of the Bill in the Rlt. At the last session when the Bill was ready (but not taken up) the Chief Secretary was in charge.

17.9.41

Secy
Rlt Dept)

The Chief Secretary may perhaps be in charge.

BKR
27.9.41

Law Secy)

Hm
2
28/9/41

BKR
28.9.41

Chief Secy)

Noted.

NN
28/9

BKR
29.9.41

GOVT. LAW DEPT.
23 SEP. 1941
GOVT OF MYSORE

Amendment Bill — Debt conciliation

R 1765

File No. of 194

General and Revenue Secretariat
R. A. & L. C.

Serial No. R 1765
2/0

introduced in the Bill under consideration (this provides for sufficient safeguards against the arbitrary exercise of powers by the Conciliation Board. This would seem sufficient for the present. If complaints should be received, an alternative provision for appeals, remission with the necessary & the object of the Act would be furnished

for
2/0

(Chief Sec)
Fin & Rev
Ministry

MMS
3/10/41

1955
3.10.41

OFFICE OF THE MINISTER FOR FINANCE & REVENUE
7 OCT. 1941
No 2051.

Seen by the Minister

The Bill was considered in the R. A. and the amendment proposed was passed & the draft Bill (subject to the amendment) was passed.

for Secretary & Treasurer (Legislation)
16.10.41

Asst Sec (Legn)
2/0

General and Revenue Secretariat
R. A. & L. C.

DEBT CONCILIATION (AMENDMENT) BILL.

File No. of 194 App. F. III-2

Serial No.

A copy of the proceedings of the Representative Assembly in relation to this Bill is put up.

An amendment was moved by Mr. K.Chengalaraya Reddy which was passed by a majority of the members. The voting was 183 for and 50 against. Section 26(2) of the Government of Mysore Act requires that when an amendment is carried by not less than two-thirds of the total number of members, Government have to embody the amendment unless they append a statement giving reasons for not doing so. The strength of the Assembly is 311 (excluding vacant seats, 297 at the lowest) and it is therefore not necessary for Government to embody the amendment if they don't consider it necessary to do so.

The amendment aims at introducing the element of compulsion in the conciliation of debts by making the decision of the Board binding on all creditors whether they agree or not.

As observed by the Chief Secretary during the discussions in the Assembly, the amendment is opposed to the very principles of the Bill. The Special Officer, to implement whose report (to the extent accepted by the Government) the Bill is intended, has considered this question and has expressed the opinion that a complete adoption of compulsion is neither immediately necessary nor advisable. The Bill as placed before the Representative Assembly ~~might~~ via, if approved, be introduced

in the Legislative Council without any modification.

It is for consideration if the Bill may be publish under rule 36 of the Legislative Rules. One stage of the Bill in the Legislative Council gets dispensed with in such a case. The statement of principles (with notes on clauses) will be adopted as statement of objects and reasons.

10.11.41

Law Secy) May be published.

Chief Secy (M.T.)

Hm 2 11/11/41. 11.11.41

Law Minister & Finance Minister

11.11.41

12/11 13/11/41

Dewan)

Hm 2 19.11.41. 20/11/41

21.11

23/11/41

Hm 2 24/11/41

1941 2943

Mr. D.S.

Send with a draft notification for appl

DSN 25.11.41

Law Secy

Hm 2 25.11.41

Debt Conciliation (amendment) bill

General and Revenue Secretariat
R. A. & L. C.

L.C. File No. 270/RL of 1941-42 App. F. III-2

Serial No.

The Compiler, Nyasa Gazette

Now No RL Gazette 26th Nov 1941

Publishes the bill in the Gazette under Rule 36 of the Legislative Rules, 1

Discussion in the Assembly proceeds mainly on the question that Compulsion was necessary and the Bill did not provide for Completely for it.

There was no objection to any of the clauses of the Bill as such.

Since it would be outside the purview of the Principal Act to provide for Compulsion, the amendment moved and passed in the Assembly has not been accepted.

In the circumstances there may be no need to refer the Bill to a Select Committee unless some Member moves as an amendment under So. 31(2)(a). The following motions are therefore suggested.

1. Motion that the Bill published under Rule 36 of the Nyasa Legislative Rules be taken into Consideration by the Council at once

Moved Minister for Finance & Revenue

Seconded Chief Secy

2. Motion that the Bill be passed.

Moved Minister for Finance & Revenue

Seconded Chief Secy

Law Secy 26.11.41

NOTE:- Contin. Sheet.

SECT. LAW DEPT. 28 NOV. 1941 ZOMBA

Debt Conciliation (Amendment) Bill

File No. 210/41 of 194

General and Revenue Secretariat
R. A. & L. C.

Serial No.

May be approved.

Minister (Finance)
Chief Secy

28.11.41.

Bill. 38/41

29.11.41

1/12/41

1.12.41

20 NOV. 1941
GOVT. OF MYSORE.
OFFICE OF THE MINISTER
FOR
1941
No 3171

Mr JAS.

Noted
1-12-41

The Bill was introduced in the Legislative Council in December 1941 and referred by it to a Select Committee consisting of the following Members:

1. Ministers for Finance & Revenue
2. Mr. S. Abdul Wajid
3. " Mirle N. Lakshminarayanappa
4. " Mahomed Akbar Khan
5. " D. S. Mallappa
6. " M. C. Linga Gowda
7. " L. S. Raja
8. " T. Mariappa
9. " L. Venna Reddy

The next session of the

Debt Conciliation ([redacted]ment) Bill

General and Revenue Secretariat
R. A. & L. C.

File No. 22(8)/41 of 194

App. F. III-2

Serial No.

Legislative Council is fixed for 16 ~~15th~~ 22nd June.

It is for orders as to when the meeting of the Select Committee has to be called

Secy
RAdc
16.2.42

The meeting may perhaps be held during the last week of March or the first week of April

BVR
17.2.42

Minister for Finance & Revenue

1st week of April
– say 1st Saturday

(4.4.41)

BVR
18.2.42

The time at which the meeting may be held may kindly be fixed.

BVR
13.3.42

Minister for Finance & Revenue

13.3

BVR
13.3.42

File No. 210/42 of 194

General and Revenue Secretariat
R. A. & L. C.

Serial No.

Subd.

A draft G.M. intimating ~~to~~ the members of the Select committee that a meeting will be held on Saturday the 4th April 1942 at 8 A.M to consider the Debt conciliation (amendment) Bill, is put up for approval

24.
19-3-42
BVM
19/3/42

BVR
19.3.42

Issued No R.L. 1943-49 dated 20-3-42 to the members of the Select committee intimating them that the meeting of the committee will be held on 4th April 1942 at 8 A.M.

Issued No R.L. 1950 and No R.L. 1951 dated 20.3.42 to RA & LC Office and Office Branch respectively, forwarding copy of the G.M. noted above, for information and necessary action.

Mr L. Verma Reddy has ~~since~~ ceased to be a member of the ~~Select Committee~~ Legislative Council & the Council therefore ~~and~~ hence no intimation is given to him of the meeting.

The file is returned ~~for information~~ ~~to file as above~~

4-3-42.
BVM
24/3/42

BVR
4.3.42

OFFICE OF THE SECOND MEMBER
OF COUNCIL.

97-3/42

Submitted.

As the minister will not be on the 4th April in station, the meeting of the Select Committee on Debt Conciliation Bill, that day proposed to be held on ~~the~~ 4th April, will have to be postponed. If agreed, the meeting may perhaps be held at 8.30 A.M on Thursday the 16th April 1942.

28.3.42

Yes Ill
28/3

Secy, P.C.

BKR
28-3-42

A revised draft C.M. intimating the members of the Select committee that the meeting will be held at 8.30 A.M on Thursday the 16th April 1942, is submitted for approval

31-3-42

BVN
31.3.42

Done & dsp
BKR
31.3.42

To
1) The members of the Select committee
2) R.A. & L.C Section
3) Office Branch

1. No RL 20/13-19, RL 20-2 and RL 20-21 dated 31st March 1942 states that the meeting of the Select committee will be held at 8.30 A.M. on Thursday 16th April 1942.

The file is resubmitted for information

U.
4-4-42 BVR 1/4

BVR

The Select Committee meeting is fixed to be held at 8.30 A.M on The 16th inst. The file is submitted for perusal

BVR
13.4.42

Minister for Finance & Revenue)
4/4/42

To be sent to house on 15th

KM
14.4

mitted. The Select committee meeting was held at 8.30 A.M. on the 16th inst. All the members except Mr. Abdul Wazid were present. A few clauses were gone through and the meeting was postponed to 27th of this month.

Select Committee (Amendmen

General and Revenue Secretariat
R. A. & L. C.

File No. 270/RL of 194

App. F. III-2

Serial No.

A draft O.M. intimating the members of the Select committee that the next meetin will be held on ~~Tuesday~~ Monday 27th April 1942 at ~~8.30 A.M.~~ 8 A.M. is put up for approval

Issue today
21.4.42

21-4-42

To 1) The Members of the Select committee
2) R.A. & L.C. Office
3) Office Branch

O.M. No. RL 2331-36 dated 21-4-42 intimates that the next meeting of the elect committee will be held at 8 a.m. on Monday 27th April 1942 in the Chambers of the Minister for Finance and Revenue

The file is resubmitted for information

22-4-42

The adjourned meeting of the S.C. for the 27th instant at 8 A.M.

A draft report of the S.C. to the extent to which the Bill was gone through on the last occasion is put up for Consideration

23.4.42

Secy (Revenue)

25.4.42

Minister Finance & Revenue)

Debt Conciliation (amendment) Bill.

File No. 270/42 of 194

General and Revenue Secretariat
R. A. & L. C.

Serial No.

The rest of the Bill was gone through at the adjourned meeting held on the 27th April.

Draft of a Report of the Select Committee is put up for approval.

After approval by the Minister, Copies will be despatched to the members for their approval.

Secy
11.5.42

9.5.42

OFFICE OF THE MINISTER FOR FINANCE & REVENUE
RECEIVED 14 MAY 1942
No. 6687.

BXR
4.5.42

Minister for Finance & Revenue

Please send Copies to the members of the S.C. for their approval and return

9.5.42

Draft letter forwarding a copy of the Select Committee Report on the Mysore Debt Conciliation (Amendment) Bill to each of the members of the Select Committee who attended the meetings of the Committee is submitted for approval and return

11.5.42

5-42
BXR 11.42

The Mysore Dept Conciliation

General and Revenue Secretariat
R. A. & L. C.

File No. 270 | RL of 194 [App. F. III-2

Serial No.

Issued No 5593-98 L.C dated 14.5.42 to the members of the Select Committee forwarding copies of the Select Committee Report on the Dept Conciliation (amendment) Bill for approval and return.

Sd/-

So far only three members of the Select Committee (Messrs. Mahomed Abbas Khan, Mirle Laxminarayanappa and L.S. Raju) have returned copies of the Select Committee Report with their approval.

A draft reminder to the other members of the Select committee to expedite the return of the Report with their approval is put up for approval.

22.5.42
BOM 30/5
reminder

22.5.42

Issued No 6755-57 L.C dated 25.5.42 to the members of the Select Committee

All the members of the Select committee, except Mr. Mariappa, have returned the copies of the Select committee Report with their approval

Another draft reminder to Mr. Mariappa is put up for approval.

Sd/-

30.5.42
BOM
30/5

30.5.42

Issued No 7161 L.C dated 1-6-42 to V. Thirumalappa, Member, Legislative Council, Mysore

1,000—4-3-41

Debt Conciliation (amendment) Bill

File No. 1701 RL of 194

General and Revenue Secretariat
R. A. & L. C.

Serial No.

The Report of the Select Committee has been approved by all the Members.

Mr. T. Manjappa has however signed subject to a Minute of Dissent. This is for perusal.

The report and the Minute of Dissent will be published in the Gazette

Secy (Revenue) 8.6.42

Fin. & Rev. Minister 6.6.42

6.6.42

The report must appear in the next issue of the Gazette. 8.6.42

under Standing Order 36 of the Mysore Legislative Council Rules and standing Orders, the report of the Select Committee on the Mysore Debt Conciliation (amendment) Bill and the minute of dissent and also the Bill as amended by the Select committee will have to be published in the Gazette.

Draft Notification publishing the Report of the Select committee with the minute of dissent and the Bill as amended by the Select Committee is submitted for perusal.

Secy 8.6.42

8.6.42

Rept Conciliation (Amendment) Bill

File No. [illegible] of [illegible] Page.
Current No. 270 | RL

Issued No 729 Le dated 8th June 1942 of the Compiler Mysore Gazette directing publication of the Select Committee Report and the Bill as amended by the Select Committee in the next issue of the Gazette

Subject

As indicated above, action has been taken to publish the report of the Select Committee & the bill as amended by them in the Gazette dated 11.6.1942. It is proposed to enact the bill into law at the ensuing budget Session of the L.C. & the following motions in respect of the bill are submitted for consideration.

1) Motion that the report of the Select Committee and the bill as amended by it be taken into consideration

Mover - Minister, Finance & Revenue

Motion that the bill be passed

Mover - Minister Finance & Revenue

270 IC

Subd.

The Bill was taken into consideration and also passed by the Legislative Council.

A.S.F.N. is put up for approval

30.6.

(Secy RA Dept)

BYGR 30/6/42



(Law Secy)

(Rev & Fin Secretaries (in) 1/7

Final Note by the Minister for Finance and Revenue.

Subject.— Promulgation of the Debt Conciliation (amendment) Bill.

On the 28th May 1941, His Highness was graciously pleased to approve of the proposal to place the general principles of the Debt Conciliation (amendment) Bill before the Representative Assembly and to introduce it in the Legislative Council. The Bill was placed before the Representative Assembly in October 1941. Subject to an amendment moved in the Representative Assembly and passed there, the Bill was approved in that Chamber But as Government considered that the amendment was against the spirit of the Debt Conciliation Act, and as the vote on the amendment did not require a statement from Government under section 26 (2) of the Government of Mysore Act before being rejected, the Bill, as placed before the Representative Assembly, was introduced in the Legislative Council in December 1941 and referred to a Select Committee.

The Bill as revised by the Select Committee was taker into consideration by the Council during its present Sessior Of certain amendments moved in the Council, one was accepted and the others were not passed. The Bill, as amended, was finally passed.

A copy of the Bill as passed by the Council and signe the President is submitted to His Highness the Maharaja unde Standing Order 45 of the Mysore Legislative Council Standing Orders.

Submitted to His Highness.

I submit herewith a Final Note by the Minister for Finance and Revenue on the subject of the promulgation into law of the Debt Conciliation (amendment) Bill, for His Highness's gracious approval.

Mirza Ismail

D E W A N.

Bangalore,

4th July 1942.

Record of Cases submitted for the Orders of His Highness the Maharaja.



Subject.

Promulgation into law of the Debt Conciliation (amendment) Bill.

Order.

1/11/42.

eneral and Revenue

Secretariat.

SUBJECT :—

Promulgation into law of the Debt Conciliation (Amendment) Bill.

(*)

14. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Ministers for perusal after the issue of orders.

16. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after, to the Chief Secretary for circulation to the Ministers.

17. In all other cases, the files will first be circulated to the Ministers at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Council of Ministers for perusal of His Highness' orders before/after issue of orders. (*Vide* Rules 14, 16 and 17 of the Subsidiary Rules for the conduct of business of Council in the Mysore Government Business Rules.) (*)

Chief Secretary to Government.

Through the Secretary to Government,

.....L. & W.....Department.

206
10.7.42

Minister for Finance and Revenue.

420
11.7.42

Minister for Law.

212
10.7.

Minister for Education.

407
11.7.42

Minister for Local Self-Govt. and Public Health.

Law Secy
W/C.

WD 06360—GPB—500—23-3-42

The Mysore Legislative Council (amendment) Act,

Continuation Sheet. File No. / Current No. Page.

The gracious assent of His Highness was accorded on the 7th day of July 1942 to promulgate the Mysore Legislative Council (amendment) Bill into Law

A draft G.O. directing publication as Act No XXVII of 1942 is submitted for approval

N
20-7-42
BVV
20/7.

Secy
RA.LC
20.7.42

BKR
20.7.42

Law Secy

Cus
20-7-42

Dsme
BKR
20.7.42

Issued No RL 100 Legis 6-42-1 dated 22nd 1942, to the Mysore gazette

GOVT. LAW DEPT. 743 GOVT OF MYSORE

338/39-40
Secret/Copy

SECRETARIAT No. 2213 15 NOV 1939 REVENUE BRANCH

OFFICE OF THE REVENUE COMMISSIONER IN MYSORE,

Dated Bangalore, 3rd November 193 9

L.R. 323-39-2

1941

FROM

Ruknul Mulk
S. ABDUL WAJID, ESQ., B.A.,
Revenue Commissioner in Mysore.

To

The *Secretary to the Government of*
His Highness the Maharaja of Mysore,
General Department *Bangalore.*

GENERAL 6 NOV. 1939

SIR,

With reference to your letter No.D.488-9/C.3.5-39-7 dated 13th July 1939, calling for a report in the matter of the establishment of a Debt conciliation Board in Kunigal taluk, I have the honour to forward herewith a copy of Tumkur Deputy Commissioner's letter dated 20th August 1939, and to state that it is reported that the scheme may be introduced into all the places in the District where there are Land Mortgage Banks, that at present there are Land Mortgage Banks at Tumkur, Tiptur, Kunigal and Turvekere and that the Debt conciliation scheme may be introduced into all these places or as many of them as possible this year.

2. Kind reference is invited in this connection to this office letter No.C. 6716/38-39 dated 9th August 1939, to the Chief Secretary to Government, re. the introduction of the scheme into some more Taluks this year and if it is the intention of Government to introduce the scheme into some more taluks, the question of introducing the scheme to Kunigal taluk may also be considered.

I have the honour to be,
Sir,
Your most obedient servant,

K.M. Nanjundaiah

Assistant Commissioner,
For Revenue Commissioner.
Absent from the station.

Mr Owen over 1

Jud DR 380718/L. R. 323-37-6

The scheme of Debt Conciliation was brought into effect in the marginally noted six taluks and Conciliation Boards were set up in these taluks with effect from 1st July 1938. From the reports of the working of the scheme in the taluks ~~so far~~, it is observed that the results have not been sufficiently encouragin and the expectations which Government ~~had in view~~ when they ~~sanctioned~~ the scheme has not realised ~~in any appreciable measure~~. ~~The~~ The presiding officers of the Boards and the Deputy Commissioners of Districts have brough to notice various defects and omissions in th scheme. Several suggestions have also been made in the Representative Assembly and by th public for the improvement of the ~~scheme~~ ~~mx~~ s that the measure may really bring in the bene fit ~~for~~ which it was ~~formulated~~. Government consider that it is desirable to examine the scheme thoroughly in the light of the experie gained so far and ~~introduce~~ such improvement and supply such omissions as may be called fo ~~to make it work successfully~~. They are accordingly pleased to direct Mr. B.K.Rama-krishnaiya, M.A.L.L.B., Munsiff, working as Assistant Secretary to Government be placed on special duty to examine the working of the scheme and

Chikballapur
Madhugiri
Devanahalli
Nagamangala
Sagara +
Koppa.

indicating the defects, if any, and suggesting the lines on which action is ~~necessary to make~~ might be taken so that the ~~scheme achieve~~ the object ~~with which it was originally sanctioned~~ of the scheme might be more fully realised.

To

Sent

—Do.— copies to C.B.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

GENERAL AND REVENUE DEPARTMENTS.

G. O. No. R. 3807-18 L. R. 323-39-6, dated 18th December 1939.

The Working of Debt Conciliation Boards.

Deputes Mr. B. K. Ramakrishnaiya, M.A., LL.B., Assistant Secretary to Government, to study —— in the State.

ORDER No. R. 3807-18—L. R. 323-39-6, DATED BANGALORE, THE 18TH DECEMBER 1939.

The Scheme of Debt Conciliation was brought into effect in the marginally noted six taluks and Conciliation Boards were set up in these taluks with effect from 1st July 1938. From the reports of the working of the scheme in the taluks, it is observed that the results have not been sufficiently encouraging and the expectations which Government entertained when the scheme was sanctioned have not been realised. The presiding officers of the Boards and the Deputy Commissioners of Districts have brought to notice various defects and omissions in the scheme. Several suggestions have also been made in the Representative Assembly and by the public for the improvement of the law in the matter so that the measure may really bring in the benefit which it was intended to secure. Government consider that it is desirable to examine the scheme thoroughly in the light of the experience gained so far and to effect such improvements and supply such omissions as may be called for. They are accordingly pleased to direct that Mr. B. K. Ramakrishnaiya, M.A., LL.B., Munsiff, working as Assistant Secretary to Government, be placed on special duty to examine the working of the scheme in all its aspects and submit a report to Government within one month indicating the defects, if any, and suggesting the lines on which action might be taken so that the object of the scheme might be more fully realised. The Revenue Commissioner is requested to afford the officer the necessary facilities.

Chikballapur.
Madhugiri.
Devanhalli.
Nagamangala.
Sagar, and Koppa.

B. T. KESAVIENGAR,
Chief Secretary to Government.

To—The Revenue Commissioner in Mysore.
The Deputy Commissioners of Districts.
The Comptroller to Government.
The Registrar, High Court of Mysore.
PRESS TABLE.

Exd.—C.K.

WD 8057—GPB—400—29-12-39

OFFICE O
OF

Sri
~~NNA~~, ESQ., B.A., BL.
Comptroller to the Government of
H. H. the Maharaja of Mysore,
Bangalore.

Secretary to the Government of
H. H. the Maharaja of M
Bangalore.

I have the honour to request you to kindly arrange for the marginally noted Government order being communicated to this office through the Financial Department.

I have the honour to be,
Sir,
Your most obedient servant.

Venkataranganadhan

For Comptroller.

3-3-30

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS

THE MAHARAJA OF MYSORE.

Government Order No.R.3607-13/L.R. 323-39-6 dated 16th December 1939 placing Mr. B.K. Ramakrishnaiya, M.A., LL.B., Assistant Secretary to Government, on special duty for a period of one month, to examine the working of the Debt Conciliation Boards in the State and submit a report.

M. memo dated 1st March 1940 from Mr. B.K. Ramakrishnaiya, stating/that he took charge of the special work on 1st February 1940 and requesting in the circumstances explained, that the period of his special duty may be extended up to 16th March 1940.

R5244-6...
LR 323-39-10

Dated, Bangalore 6th March 1940.

For Chief Secretary to Government.

The Commissioner in Mysore.
The Controller to the Government of Mysore through the Financial Secretariat.
The Registrar, High Court of Mysore.

G. R. S. App. F VI—G 2]

SUBJECT ...

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the *193*

Date of issue 6-3-1940

Signed by M. S. K. L.

May this be—

(i) printed ?

(ii) treated as a standing order ?

(iii) published in the Gazette, English Part ?

(iv) translated ?

(v) placed at the disposal of the press ?

(vi) published in the Gazette, Kannada Part ?

Section. L. R.

File No. 323-39

Serial No. 10

Proceedings of the Government of His Highness the Maharaja of Mysore

Read- Go no. R. 3807-18/L.R. 323-39-6 dt 18.12.39 placing the services of B. K. Ramakrishnaiya, M.A; L.L Asst. Secy to govt, on Special Duty for a period of one month to examine the working of the Debt conciliation Boards in the State & submit a Report

Order thereon.—No. 2. Memo dt 1.3.40 from the B.K. Ramakrishnaiya, stating that he took charge of the Special work on 15th Feb. 1940 and requesting in the circumstances explained, that the period of his Special duty may be—

Ann R 5-244-6 dt 1-

Sanctioned

N 24/3

To Chief Secy

HP

The Hon'ble
The Comptr. Nurs' Trg &
The Reg High Court (with
a covering letter)

HP

General and Revenue Secretariat,

No. 112/DCB. Dated, Bangalore, 25th March, 1940

SECRETARIAT 3995 1940

From

B.K.Ramakrishnaiya, Esq., M.A.,LL.B.,
Assistant Secretary on Special Duty,
Bangalore.

L.R. 323-39-16

To

RAJASEVAPRASAKTA
B.T.Kesaviengar, Esq., B.A.,
Chief Secretary to Government,
BANGALORE.

Sir,

With reference to Government Order No.R.3807-18/L.R. 323-39-6 dated 18th December, 1939, I have the honour to submit herewith my report on the working of the Debt Conciliation scheme in the State, indicating therein the lines on which action may be taken so that the object of the scheme may be more fully realised.

I have the honour to remain,
Sir,
Your most obedient servant

BKRamakrishnaiya

Assistant Secretary on
Special Duty.

Excess L.R. 323-39-17

Proceedingsofthe Government of His Highness the Maharaja of Mysore.

Read:-

G.O.No.R.3847-18/L.R.323-39-6 dated 18th December 1939 deputing Mr. B.K. Ramakrishnaiya, M.A., LL.B., Assistant Secretary to Govt. to examine the working of the scheme of Debt Conciliation in the State in all its aspect and submit a report to Government.

Letter No.112/DCB dated 25th March 1940 from the said officer submitting his report.

Order No. R. 6799-810 and Closures, Bangalore, 4. 22-5-40.

Mr. Ramakrishnaiya has examined in detail the working of the Debt Conciliation Act, 1937, and other allied matters and has submitted an interesting report, ~~which will be~~ published for general information. The High Court, the Rev. Commissioner in Mysore, the Registrar of Co-operative Societies ~~in Mysore~~, and the Deputy Commissioners of Districts are requested to forward their views to Government at an early date. On the points dealt with in the special Officer's report Suggestions received from the public before July 15, 1940, will also be duly considered by Government in passing orders on the Report.

Chief Secretary to Govt.

The Revenue Commissioner in Mysore,
The Registrar, Co-operative Societies,
The Deputy Commissioners of Districts,
The Registrar, High Court of Mysore (Copy to C.L.)
Comptroller PRESS TABLE 11.8.

GENERAL AND REVENUE SECRETARIAT

1464
KR-323-39-18 *Dated, Bangalore* 22nd May 1940

Dear Sir,

In forwarding herewith a copy of Government Order No.R.6799-810/L.R.323-39-17 dated 22nd May 1940 publishing the report of the Special Officer regarding the working of the Debt Conciliation Act in the State, I am desired to request you to be so good as to set the same in type - immediately and print and supply 300 signed copies and 50 unsigned copies to this office at a very early date.

Yours sincerely,

Asst Secy

B.Krishnaswami Chetty,Esq., B.E., A.R.P.S.,
Superintendent, Government Printing,
Bangalore.

LR. 323-39-

G. R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

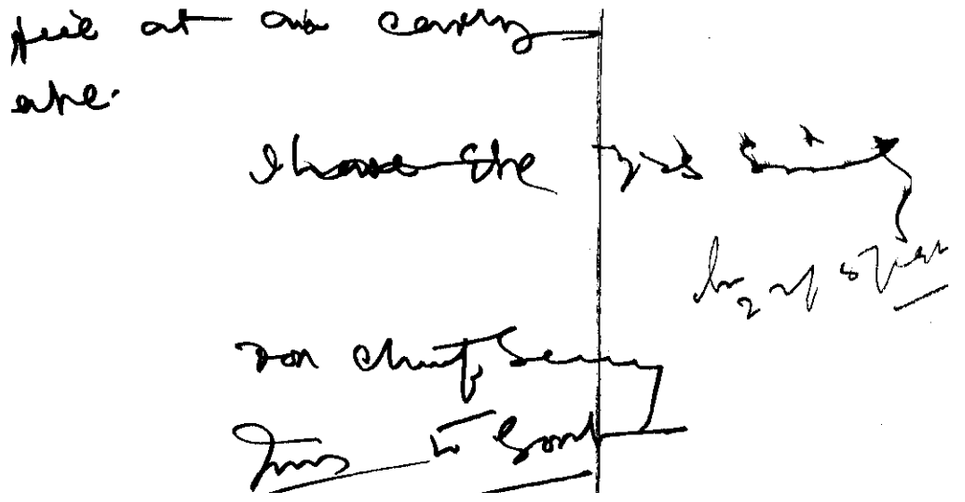
(*Continuation sheet draft form.*)

The Superintendent
Govt Printing
Bangalore.
CBy

Dear Sir.

I am forwarded herewith a copy of Govt. No R. 6799-810/LR. 323-39-17 dated 22-5-40. ~~for calling for objections and opinions of certain persons~~ ~~Officials~~ on the report of the Special Officer re: the working of the Debt Conciliation Act in the State, I am directed to request you to be so good as to supply immediately and ~~forward~~ 300 signed copies & 50 unsigned copies to this

and dft fwd.
Superintendent Govt Printing



REPORT OF THE SPECIAL DUTY OFFICER ON THE WORKING OF THE DEBT CONCILIATION SCHEME IN THE STATE.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

GENERAL AND REVENUE DEPARTMENTS.

G. O. No. R. 6799-810—L. R. 323-39-17, dated 22nd May 1940.

Debt Conciliation Act.

Publishes the report of the Special Officer *re* the working of the —— in the State.

READ—

Government Order No. R. 3847-18—L. R. 323-39-6, dated 18th December 1939, deputing Mr. B. K. Ramakrishnaiya, M.A., LL.B., Assistant Secretary to Government, to examine the working of the scheme of Debt Conciliation in the State in all its aspects and submit a report to Government.

2. Letter No. 112—D.C.B., dated 25th March 1940, from the said officer, submitting his report.

ORDER No. R. 6799-810—L. R. 323-39-17, DATED BANGALORE, THE 22ND MAY 1940.

Mr. Ramakrishnaiya has examined in detail the working of the Debt Conciliation Act, 1937, and other allied matters and has submitted an interesting report which is published for general information. The High Court, the Revenue Commissioner in Mysore, the Registrar of Co-operative Societies and the Deputy Commissioners of Districts are requested to forward their views to Government at an early date on the points dealt with in the Special Officer's report. Suggestions received from the public before July 15, 1940, will also be duly considered by Government in passing orders on the Report.

(Printed as an Annexure.)

B. T. KESAVIENGAR,
Chief Secretary to Government.

To—The Revenue Commissioner in Mysore.
The Registrar, High Court of Mysore.
The Deputy Commissioners of Districts.
The Registrar, High Court of Mysore, with a covering letter.
The Compiler, *Mysore Gazette*.

PRESS TABLE.

Exd.—B. G. S.

WD 3844—GPB—570—20-6-40

CONTENTS.

		PAGE
	G. O. No. R. 6799-810—L. R. 323-39-17, dated 22nd May 1940 ..	(i)
I.	Introductory	1
II.	Working of the Debt Conciliation Boards	1—6
III.	Remedial Measures	6
	(i) General suggestion	6—9
	(ii) Suggested Amendments to the Act	9—17
IV.	Concluding Remarks	17
	Summary of Recommendations	18

APPENDICES.

(i)	Tabular statement showing the work turned out by the Boards ...	20—21
(ii)	Statement of Receipts and Expenditures of the Board ...	22
(iii)	List showing the number of applications involving a debt of more than Rs. 5,000	22
(iv)	Statement shwing the number of original cases and execution proceedings in which proceedings were stayed under section 26	23

ANNEXURE.

REPORT OF THE SPECIAL DUTY OFFICER ON THE WORKING OF THE DEBT CONCILIATION SCHEME IN THE STATE.

I. Introductory.

The Committee appointed by Government in 1934 to consider measures of relief to the agriculturists to tide over the economic depression recommended, among other things, that a measure of debt conciliation may, with advantage, be tried so that the standing debts may be brought down within the repaying capacity of the debtors. In their order, dated the 30th October 1935, Government generally accepted the scheme proposed by the Committee except for a few modifications. This scheme was further examined and the High Court was also consulted and a Bill was placed before the Legislative Council in June 1936, and it was promulgated into law in February 1937, as Act VI of 1937.

2. Government in their Order, dated 13—14th June 1938, sanctioned the introduction of the scheme for a period of two years with effect from 1st July 1938, in six taluks noted in the margin as an experimental measure. The Debt Conciliation Boards in these taluks have thus been working for just over 18 months in conciliating debts on the voluntary basis. Till the end of December 1939, the Boards received 622 applications involving a total amount of Rs. 8,35,947-3-7 (392 applications by debtors covering a debt of Rs. 7,02,770-12-3 and 230 applications by creditors covering a debt of Rs. 1,33,176-7-4). Of these, conciliation was effected in 64 cases, reducing the debt amounting to Rs. 55,852-12-1 to Rs. 35,920-1-6. This has resulted in a total reduction of such debts by about Rs. 20,000 only. The total expenditure incurred by Government for the purpose during the period amounted to Rs. 4,941-7-0. (For details see the tabular statements I and II in the Appendix).

Chikballapur, Madhugiri, Devanhalli, Nagamangala, Sagar, and Koppa.

3. From the reports of the working of the scheme in these taluks and from representations made on the floor of the Representative Assembly and the Legislative Council and by the public, Government found that the results were not sufficiently encouraging and the expectations which they entertained when the scheme was sanctioned had not been realised. In answer to an interpellation during the Dasara Session of the Representative Assembly last year, Government were pleased to state that it was under their consideration to have the working of the Debt Conciliation Boards examined with a view to remedying defects, if any. Government were accordingly pleased to place me on special duty to examine the working of the scheme in all its aspects and submit a report to Government within one month indicating the defects, if any, and suggesting the lines on which action may be taken so that the object of the scheme may be more fully realised.

4. With a view to acquaint myself with the working of the Boards, I visited all the places where the Boards were located and had also discussions with the members of the Board in those places and also the general public. I had also discussions with the District Judge, Shimoga, Deputy Commissioner, Mandya, and with the members of the Bar at Narasimharajapura and Mandya. At my request, several gentlemen, both official and non-official, were kind enough to send me their suggestions and recommendations. The Merchants' Association, Shimoga, also forwarded to me a copy of the resolutions passed at a meeting of theirs on the subject in question; and several representations were also made to me by individuals during the meetings I had in various places. With the kind permission of the High Court, I was enabled to collect statistics regarding the institution of suits and stay proceedings relating to the taluks where the Debt Conciliation Boards are established. My acknowledgments are due to all these persons and institutions for their assistance and co-operation in my investigation.

II. Working of the Debt Conciliation Boards.

5. A close examination of the appended tabular Statement I will show that of the 622 applications filed before the Board, 81 applications covering a debt of Rs. 1,42,199-5-8 have been rejected under Section 7 on account of the failure on the

part of the applicant to furnish the necessary particulars; 199 applications covering a debt of Rs. 2,62,801-9-0 have been dismissed under section 9 either for the reason that the applications were not pursued with diligence or that conciliation was impracticable; and four applications covering a debt of Rs. 42,950 were dismissed under section 17 as no conciliation could be effected within a year. It will thus be seen that the number of applications in which conciliation was effected bears a small proportion to the number of applications filed or to those rejected or dismissed. The figures given below show the number of applications filed before the Boards during the three half-years when the Act has been in force:—

Period	Chikballa-pur	Madhugiri	Devanhalli	Naga-mangala	Sagar	Koppa
1st July 1938 to 31st December 1938.	28	42	35	24	75	11
1st January 1939 to 30th June 1939.	22	19	19	89	29	25
1st July 1939 to 31st December 1939.	21	11	43	95	20	24

6. A study of the above statistics reveals that the expected result has not been achieved. During the short period that the Act has been in operation, it has not been able to redeem the indigent debtorse to any appreciable degree from the clutches of moneylenders. But if we bear in mind that the Act has been in operation only for a short period of 18 months or so, it may perhaps be too early to condemn it on the basis of the results achieved. In the first place, people must get accustomed to the facilities offered in the Act. Many of the borrowers are ignorant of the beneficial provisions of the Act. Even those who have a knowledge of the provisions of the Act have not availed themselves of the benefits offered as they desire to stand well with their creditors and do not want to lose the little credit that they are now able to command. As suggested by the Banking Enquiry Committee, some amount of propaganda is also necessary to make the creditors and the debtors understand that the honest creditor and the honest debtor have each to gain something under the Act.

In the next place, the Boards have met only for a few days during the period for transacting business. The number of days on which the Boards have met vary from 23 to 60 days during this period of 18 months. Naturally much work cannot be expected to be turned out during these sittings. There is a welcome feature that latterly the Boards have been meeting more often than before. It may be expected that the output of the work will also be much greater. It is not so much the restricted scope of the Act but the absence of any provision to enforce prompt settlement and payment of conciliated debts that have made the Act ineffective. At present the Board merely compels the creditor to reduce his amount without compensating him either by ready cash payment or by giving him property. Even the reduced amount is spread over a large number of years. If a cash payment is offered it will also be very easy to persuade the creditor to take a much smaller amount than is really due to him. If some provision can be made for the payment of conciliated debts, there is no reason why the Act could not be successfully worked. It is no doubt true that the Act has led to the adoption of questionable practices. Documents have been taken for much larger amounts than what is really advanced. Sale deeds have been taken where the transaction really intended is only a mortgage. Such practices cannot obviously be a lasting phase and can be expected to disappear now that the Moneylenders Act has been introduced. This Act also forbids the molestation and intimidation of debtors and punishment for these offences is also provided for. These factors may be expected to induce the creditor to seek more and more the help of the Debt Conciliation Boards. That the benefits of the Act have probably been just begun to be understood can be gathered from the fact that in Nagamangala and Devanhalli taluks, the creditors have of late been freely resorting to the scheme. The main reasons which influence them are apparently the saving of heavy cost and avoidance of uncertainties and worries of litigation. The working of the Act requires therefore to be watched for some time more before one can decide whether its benefits are extensive or not.

7. *Some irregularities noticed.*—(1) In a petition filed by a creditor, the Board did not call for any statement from the defendent as contemplated in section 8 (3). It merely examined the debtor orally and even then did not elicit from him whether the debt in question was the only debt due by him or if he had any other debts to pay. Conciliation was effected by the debtor agreeing to sell his properties to the creditor in satisfaction of his debt.

(2) No process fee is levied in respect of notices issued either under section 8 or under section 10. Even the postal charges for sending notices by registered post under section 8 (2) is met from the contingent grant of the Board and not levied from the applicant.

(3) Contrary to the mandatory provisions of section 17, cases are allowed to be pending for more than a year.

(4) Contrary to the underlying principle of the Act and without the consent of the creditor, the Board directs that the creditor should receive what in the opinion of the Board is a fair amount and proceeds to conciliate on that basis.

(5) Rent as defined in the Mysore Land Revenue Code, is excluded from the definition of the " debt ". Any decree relating to such rent is *ipso facto* taken out of the purview of the Act; but in some cases rent decrees also have been conciliated by the Board.

(6) In some cases statements under section 10 (2) are not filed and in some other cases even notices under this section are not issued.

(7) Conciliation has been effected on an application filed by a debtor in respect of joint debt, or a debt guaranteed by a surety, though there is no provision in the Act empowering the Boards to conciliate such a debt in the absence of the co-debtor or the surety.

(8) Even after the secured creditor has made a statement refusing to accept a settlement, his presence is insisted upon till the application is disposed of.

(9) Even after confirmation of sale and delivery of possession (which indicates that the debt is no longer existing) the creditor-purchaser is asked to appear before the Board on every date of hearing.

8. Doubts felt by the Board.

(1) *Whether Process Fee should be paid for Notices under Sections 8 and 10 and who should bear the cost of Postage for sending Notices under Section 8 (2) by Registered Post.*—The practice regarding the levy of process fee and postal charges is not uniform in all the Boards. While some of the Boards levy postal charges from the applicants concerned; other Boards meet such charges from their contingent grants and no Board seems to be levying the process fee for notices. It is an elementary principle that the applicant who prays for the issue of any process should pay the necessary charges. There is also no justification for the Boards meeting the cost of sending notices by registered post from out of its contingent grant. In respect of notices under section 8 (2), both the process fee and the postal charges must be levied from the applicants; (compare Rule 27 (3) of the Mysore Insolvency Rules); and process fee under section 10 (2) must be levied from the applicants. To make the point clear a rule may be added as in Punjab that the cost of issuing these notices shall be recoverable by the Board from the applicant in advance.

(2) *Whether the Boards may issue coercive processes to secure the presence of Parties and Witnesses.*—Section 13 provides that subject to the rules made under the Act, the Board may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on a Civil Court by the Code of Civil Procedure, 1911. Rules 15 to 19 of the Debt Conciliation rules govern the procedure for summoning parties and witnesses. No provision is made here for issue of warrant or proclamations to enforce the attendance of defaulting parties and witnesses. It is desirable that the rules be amended by empowering the Board to issue such processes and to exercise the following powers under Order 16 of the Civil Procedure Code, 1911, subject to the prior sanction of the Deputy Commissioner—

(*a*) to issue warrant of arrest;
(*b*) proclamation and attachment of property,
(*c*) the imposition of fines, (Compare Rule 49 of the Bengal Agricultural Debtors Rules).

(3) *Difficulty experienced in the case of Illiterate Debtors not being able to furnish full Particulars required under Section 6.*—Some difficulty seems to have been felt by the debtors in this behalf as shown by the fact that out of 392 applications filed by the debtors, about 80 applications have been dismissed for failure on their part to furnish correct particulars. It is, however, difficult to say whether in all these cases the debtors were really unable to furnish particulars or whether after having a chieved their object in having execution proceedings against them stayed, they were indiffierent regarding the further prosecution of their applications before the Board and deliberately allowed their applications to be dismissed, particularly as rejection under section 7 would not preclude them from making a fresh application. But the difficulty till now experienced by them can hereafter be easily got over. With the introduction of the Moneylenders Act, the debtor has now the right to get a correct statement of his debts from his creditors. It is also open to him to obtain a certified copy of the Record of Rights Index register as regards the particulars of the landed properties owned by him. It should thus be possible for an honest debtor to furnish without much difficulty the particulars required under section 6.

(4) *Whether in determining if a Debt is subsisting or not the ordinary Law of Limitation should be applied or Limitation provided in section 24 of the Mysore Agriculturists' Relief Act should be deemed to be applicable.*—Provision in section 24 of the Agriculturists' Relief Act is a special rule of limitation applicable only to suits against agriculturists as defined in that Act; and it follows therefore that for the purposes of determining under the Debt Conciliation Act whether a debt is or is not barred by time, the Board should be guided by the ordinary rules of limitation.

(5) *When the Secured Creditor to whom more than 50 per cent of the total Debt is due does not agree to Settlement, whether a Settlement can be effected in respect of the remaining Unsecured Creditors.*—In view of the clear provisions of Section 14 (1) an agreement of a settlement is to be recorded only when a creditor to whom more than 50 per cent of the debt is owing comes to a settlement. So no settlement is possible in a case like the one under consideration.

(6) *Whether in case of Revival of an Application under Section 24, the period of one year prescribed under Section 17 is to be counted from the date of the original Application or from the date of Revival.*—I think the starting point must necessarily be the date of application. While computing the period of one year, the period from the date of dismissal of the application till the date of its revival is to be excluded.

(7) *Whether in respect of Applications filed by the Creditor, an examination of the Creditor is necessary under section 10, as in the case of the Debtor.*—A perusal of sections 4 to 10 of the Act clearly indicates that at that stage an examination of any creditor is unnecessary and it is only with a view to determine whether it is desirable for the Board to attempt to effect a settlement that the debtor is to be examined under section 10. Creditor's examination will, if necessary, take place after a statement is filed by him under section 10.

(8) *Whether for the purpose of registering the Agreement executed under Section 14, Parties to the Agreement have to appear before the Sub-Registrar.*—The present procedure adopted by the Boards is to expect the parties to appear before the Sub-Registrar and get the agreement registered. The said procedure clearly overlooks the beneficial provisions of section 14 (2) and (3) and causes unnecessary delay and lot of trouble to parties who might be living in various places and at great distances from the Sub-Registrar's Office. The object of the legislature in enacting Section 14 (3) appears to be just to avoid unnecessary delay and inconvenience to the parties. It seems enough if the Chairman of the Board sends the agreement to the Sub-Registrar who is bound to register it by virtue of the provision of Section 14 (3) of the Act, read with section 88 of the Registration Act, and return it to the Chairman. Sub-section 2 of section 14 also requires that an agreement shall be registered within 30 days from the date of making thereof. The procedure suggested above will also help the Board to get the document registered within the prescribed period. Sub-section (2) of section 14 also contemplates the framing of some rules for the guidance of the Chairman. I would suggest that suitable rules may be made on the analogy of Rule 103 of the Bengal Agricultural Debtors Rules.

(9) *Whether a Creditor to whom less than a sum of Rs. 100 is due, can file a Petition before the Board when the aggregate debts of the Debtor exceed Rs. 100.*—According to the definition of debtor, a debtor is a person whose debts exceed Rs. 100. It is open to such a debtor to file an application under section 4 (1). Section 4 (2) provides that if the debtor has not made an application, any of his creditors may make an application to the Board to which the debtor might have applied. It is not the amount due to any individual creditor but the total amount due by the debtor that determines the question whether an application can be filed before the Board.

(10) *Whether an Agreement not registered within 30 days of its making is to be treated as cancelled.*—In view of the mandatory provision of section 14 (2) that an agreement shall be registered within 30 days from the date of making thereof, it seems to be fairly clear that if registration is not effected within the prescribed period, the agreement cannot take effect as if it were a decree of a Civil Court and will not be executable as such. It is suggested by one of the Boards that, instead of 30 days, a period of 90 days may be fixed for getting the agreement registered. There seems to be no real necessity for enlarging the period. Section 14 (1) requires that if a settlement is arrived at between the parties it shall *forthwith* be reduced to writing in the form of an agreement and under sub-sections 2 and 3, the Chairman has merely to send the agreement for registration,—of course, after levying the necessary cost from the parties concerned as per Rule 21 (2). Such simple and speedy procedure having been prescribed for the registration of the documents, a period of 30 days seems to be sufficient.

(11) *Whether interest that is already paid should be taken into consideration in calculating the amount due as per Section 16.*—This section merely introduces the rule of 'Damdupat' in respect of matters before the Board. It only means that at the time the Board settles the amount due to any creditor, it shall not allow as interest any amount greater than the principal.

(12) *The effect of a Certificate under Section 19 (1) in respect of (i) a Decree already passed; and (ii) in respect of a Pending Suit.*—As for the creditor who has already obtained his decree, the certificate does not affect him.

In the second case, the creditor will not be entitled to the cost of the suit then pending and whatever may be the rate of interest mentioned in the bond, he will not be entitled to get interest on his debt from the date of certificate in excess of simple interest at 6 per cent per annum (See A. I. R. 1935, Nagpur 43).

(13) *Whether the Stamp Duty recoverable on an Agreement is only ten annas or whether it is to be recovered on the value of the subject-matter of the Agreement.*—The practice in this behalf does not seem to be uniform. While some of the Boards get the agreement executed on a ten-anna stamp paper, other Boards insist that the stamp duty should be paid on the value of the subject-matter of the agreement. In view of the consideration that the Act is intended for the benefit of the debtor and the fact that Rule 21 (1) provides that the stamp duty on an agreement should be paid by the debtor, it appears to me that the stamp duty of ten annas is sufficient.

(14) *Whether Decreed Debts and Secured Debts could be re-opened and scaled down and Certificates issued in respect of them under Section 19.*—In view of the definition of the term debt which includes both the secured debts and decreed debts, the Boards are thoroughly competent to deal with these kinds of debts also. The only point to be noticed is that while the Board is ordinarily at liberty to decide disputes regarding the existence of the amount of debts due, it has no such power in respect of a decreed debt which shall be taken as conclusive evidence as to the existence and the amount of the debt. No question of scaling down these debts arises as the Board has no power under the Act to scale down debts but can persuade the creditor to reduce the amount due to him both in respect of the secured debt and the decreed debt. If the conditions prescribed in section 19 are satisfied, the Board can issue a certificate in respect of both the secured debt and the decreed debt. No stage is fixed for issue of a certificate.

9. Some other doubts felt by the Boards and suggestions made by them to improve the Act are considered in connection with the proposals to amend the existing Act.

10. Before closing the topic on the working of the Boards, I wish to make a few observations on the effect of the establishment of the Debt Conciliation Boards

on the institution of suits in the Civil Courts. The Debt Conciliation Boards were started in six taluks in the year 1938-39. The figures given below relate to the institution of the suits filed from these taluks in the years 1937-38, 1938-39 and the first half of 1939-40, as also the number of applications filed before the respective Conciliation Boards.

Year	Chikballapur		Madhugiri		Devanhalli		Nagamangala		Sagar		Koppa	
	1*	2*	1	2	1	2	1	2	1	2	1	2
1937-38 ...	163	...	78	...	156	...	305	...	168	...	25	...
1938-39 ...	126	50	43	61	102	44	222	113	137	104	21	36
1939-40 ... (first half year)	68	21	64	11	59	43	128	95	86	20	25	24

1* Represents the number of suits filed in the Munsiff's Court for recovery of secured and unsecured debts.

2^ Represents the number of petitions filed before the Debt Conciliation Boards.

A scrutiny of these figures reveals that in the year of the establishment of the Debt Conciliation Boards, there was a sudden fall in the institution of suits, obviously for the reason that the creditors were not fully aware of the scope of the Act and chose to wait and watch the working of the Act instead of going to Courts. But during the course of the first year of the working of the Boards, they must have come to know that the debtors were not likely to approach the Boards in large numbers for relief and consequently we find that corresponding to the decline in the institution of petitions before the Board there is an increase in the institution of suits, approximating to the old level and in some cases even exceeding that limit (*e.g.*, see figures for Madhugiri and Koppa). It looks as though the usefulness of the Boards is in a way reflected in the raise or fall of institution of suits from the respective taluks where the Boards are situated.

III. Remedial Measures.

(*i*) *General Suggestions.*

11. Opinions furnished and representations made to me during the meetings cover almost the entire field of the Debt Conciliation Act. Most of these suggestions aim at replacing conciliation by compulsion and in the view of many persons, the Debt Conciliation Act serves no purpose and if the situation is to be met the present Act must be replaced by an Act like the Madras Agriculturists' Relief Act or the recently enacted Bombay Agricultural Debtors' Relief Act. I feel that the settlement of debts on voluntary basis and by resort to compulsion are fundamentally opposed to each other, and that it would perhaps be outside the scope of my special duty to consider the desirability of substituting compulsion for conciliation in the scheme for debt relief. But as a number of persons and even the Conciliation Boards have urged the question, I think I may just as well briefly discuss the desirability or otherwise of substituting compulsion by conciliation.

12. Under section 14 of the Act, a Conciliation Board can effect a settlement only if creditors to whom more than 50 per cent of the debts are owing, are agreeable to the settlement. The Boards can do nothing more than persuade the creditors to accept their suggestion. It is still open to the creditor or creditors to whom more than 50 per cent of the amount is due to withhold consent and thwart any agreement effected by the Board even with the rest of the creditors. The element of compulsion provided in sections 19 and 20 is so feeble that it has not much deterrent effect on recalcitrant creditors. It is also noticed that even the power of issuing a certificate has not been exercised by some of the Boards. (It cannot be said that in all those cases in which creditors refused to accept the offer made by the debtor, the said offer was not fair and the Board consequently did not issue any certificate). It cannot be denied that no system of relief based on mutual agreement could help the party who is in a disadvantageous position. For this reason, the trend of legislation in British India and other States has recently turned towards compulsion. Madras was the first to pass an Agriculturists' Relief Act accepting the principle of compulsion. Even in Central Provinces where the

Debt Conciliation Boards were doing very good work, a Debt Relief Act has recently been passed for the reason that the Debt Conciliation Act has failed to do all that was required and that the weak point in the said Act was that the Boards had insufficient powers to deal with recalcitrants and were dependent on the consent of the creditor. (See statement of objects and reasons for the Central Provinces and Berar Relief of Indebtedness Bill of 1938). The Cochin State was obliged to abolish the Debt Conciliation Board with the observation that "though the Chairman and the Members of the Board had exerted to the utmost of their capacity, the Government had found that the expenditure, time and labour involved, had not been commensurate with the result achieved" and has recently passed a similar Act (Act XVIII of 1114). Bombay has also passed an Agricultural Debtors' Relief Act wherein the element of compulsion is embodied. The Debt Relief Enquiry Committee of Travancore recently recommended the passing of a Debt Relief Act providing for compulsory scaling down of debts; and at a joint session of the two Houses, the Travancore Government accepted the principle that conciliation should make room for compulsion.

13. If we now look at the other side of the picture we find that it is admitted on all hands that the effect of debt legislation is that it would considerably dry up the most important source of credit at present available to the agriculturists. As observed by Sir M. G. Deshapande: "Even in Government reports the admission is manifest that the establishment of the Debt Conciliation Board has resulted in the shrinkage of credit of the agriculturists and that they are finding it extremely difficult to secure loans for agricultural operations." If compulsory scaling down of debts is introduced, it would completely upset the credit machinery of the State. It will also have a very demoralising effect as the debtor would be out to look up to the State to rescue him out of an impossible situation. Such legislation would induce the borrowers to become reckless in the hope that agitation would always bring about the necessary legislation lessening the burden of debt. As observed by Professor B. Mukherji of the Lucknow University: "It would be foolish to imagine that the problem of rural indebtedness has been or can be solved by the debt relief legislation. It has not been solved and never will be by such one-sided legislation. A mere reduction in the rate of interest or forcible scaling down of debt will not solve the problem of agricultural indebtedness in the long run. Economic laws cannot be cheated" (Indian Co-operative Review, January-March, 1939).

14. Any substantial redemption is not possible so long as the need for borrowing exists and also so long as alternative agencies for borrowing are not instituted. The Agriculturists' Relief Committee in Mysore have estimated the agricultural debt in the State at not less than 35 crores of rupees. They are also of opinion that practical considerations and the amount involved preclude any attempt by the State for the payment of the debt in cash or in bonds. In view of their limited resources, even the Co-operative Societies and the Land Mortgage Banks cannot be expected to tackle the whole problem of agricultural indebtedness in the State. The Royal Commission on Agriculture has observed: "In the present state of India, he (the moneylender) is a necessity and that being so, his calling will not be abolished by making it illegal. He alone is in a position to provide the bulk of the capital required for current agricultural needs and on a recurrence of severe distress he will continue, as in the past, to support people by timely loans". He is thus an indispensable factor in our rural finance.

15. Even as early as 1935, the Committee appointed to consider the question of amending the Agriculturists' Relief Act, had expressed that "there is a general concensus of opinion, though a few persons have expressed themselves otherwise, that as the result of the drastic provisions of the Regulation, the credit of the agriculturist is greatly curtailed with the result that they are finding it increasingly difficult to obtain even small loans required to meet their urgent and unavoidable needs." The position has definitely gone worse with the passage of time and with the passing of the Debt Conciliation Act. It is not therefore wise to eliminate the moneylender as a class and completely kill the little credit facilities available to the agriculturist by introducing too harsh a measure. The foregoing considerations compel me to feel that a complete adoption of compulsion is not immediately necessary or advisable. I think, however, that some strengthening of the element of compulsion is called for to deal with the recalcitrants, and that it should, however, be done in such a manner as not to come into conflict with the underlying principle of voluntary conciliation.

16. It is hardly necessary to state that no scheme for the relief of indebtedness can be really helpful unless some effective means are provided for repayment of the conciliated debt. The absence of such a provision would merely make the scheme purely theoretical and make the conciliation of debts meaningless. At present the creditor has great grievances against conciliation inasmuch as debts are reduced considerably and spread over long terms extending over 20 or 30 years, and even these instalments are not paid regularly. The one form of settlement that appeals most to him is the offer of cash payment though it is much less than the amount really due to him. If he would be paid in cash he could be prevailed upon to make considerable sacrifices. In fact it was freely expressed in all the places that I visited, both by the debtors and the creditors, that creditors were willing to forego not only interest but some portion of the principal also if they were assured of receiving payment either in cash or debenture bonds guaranteed by Government. It is as a result of their feeling a sense of helplessness in the matter of recovering loans advanced by them and apprehended reductions at the hands of the Board that they have taken to various ingenious devices to frustrate the aims of law by taking documents for much larger sums than are really advanced and also taking sale deeds of properties where only a mortgage was intended. If only a scheme could be formulated, whereby the land mortgage banks and the primary societies could be utilised for advancing long term credit to the agriculturists such collusive or clandestine practices will disappear and conciliation would be more easy and more effective.

17. The Land Mortgage Bank is an indispensable complement to all schemes of debt relief. It is not all debts that these banks are prepared to pay. It is only such debts as are covered by sufficient security that the banks undertake to discharge. In our State they advance loans up to 50 per cent of the value of the security offered. It was represented that there would generally be no necessity to conciliate the debts of a debtor whose debts amount to only 50 per cent of the value of the landed property as the debtor in such cases would generally be capable of discharging his debts and the creditor, being satisfied with the security, will not generally press for repayment. Where the assets and liabilities are equal, the Land Mortgage Bank does not come to the rescue of the debtor. It is here that the Debt Conciliation Boards can persuade the creditor to reduce his claim so that it would be possible for the debtor to approach the Land Mortgage Bank for a long term credit. The process of conciliation would be very much helped if the rules governing the grant of loans by the Land Mortgage Banks are relaxed so as to permit them to grant loans up to 70 per cent of the value of the security offered. The Agriculturists' Relief Committee recommended that in view of the fall in land values due to depression a margin of 50 per cent was unduly restrictive and proposed that the limit up, to which loans may be sanctioned may be raised to 70 per cent of the market value. In their order dated the 30th October 1935, on the recommendations of the Agriculturists' Relief Committee, Government accepted the above recommendation of the Committee to raise the limit of the loan to 70 per cent of the value of the properties hypothecated. It is a matter for consideration whether action may not now be taken to amend the bye-laws of the Land Mortgage Banks in that behalf.

18. If the Land Mortgage Bank is to be in a position to come to the rescue of deserving debtors, it should be placed in possession of adequate funds to achieve it. "With the growing volume of conciliated debt that will have to be paid off through its agency it will be necessary to empower the Bank to raise the funds needed through the issue of further debentures guaranteed by Government". It is also necessary that in order to make the Bank popular with debtors some changes have to be effected in the method of its working. The Bank does not now issue any loans below Rs. 300 or in excess of Rs. 5,000. It seems that this lower limit must necessarily deny the utility of the Bank to a considerable portion of the debtor class. As the Act now provides that a debtor who has got a minimum debt of Rs. 100 can apply to the Debt Conciliation Board for relief, I think the minimum amount to be granted by the Bank may also be lowered to Rs. 100 so that the Bank may be of help to a greater number of debtors among poorer clases. Regarding the upper limit of Rs. 5,000 also, some change would be desirable. The Boards being empowered to conciliate debts without any pecuniary limit, there may be many cases where the conciliated debt may amount to more than Rs. 5,000. Such cases are sure to occur frequently in respect of coffee planters in Malnad. In

such cases it should be made possible for the Bank to advance a sum in excess of Rs. 5,000 provided the Bank is satisfied about the adequacy of the security. The inordinate delay in disposing of applications for loans must be avoided. The work of valuation of the property and the examination of title must be speeded up. This has also been noticed by the Committee on Co-operation in Mysore (see pages 140-142 of the Report).

19. It is a matter for surprise that the agricultural debtors have not availed themselves of the long-term credit facilities offered by the Land Mortgage Banks. From letters received from the Secretaries of such Banks, it is found that no application has been received by these banks for a loan to pay up the conciliated debts. The matter seems worth investigation. It is not known if the ignorance of the debtor is the cause or whether the debtor was not possessed of sufficient landed property to offer as security to cover the amount of the loan he was in need of. Anyhow, it is desirable that the Land Mortgage Banks are opened in all places where the Debt Conciliation Boards are established and that the work of these bodies be co-ordinated so as to secure the maximum benefit to the debtor.

20. It is not enough if the agriculturist's debt is reduced within his repaying capacity and facilities afforded to him to discharge such conciliated debt. It is essential to remove the root causes of this evil of indebtedness. As Sir Malcolm Darling pointed out in his presidential address at the United Provinces Co-operative Conference held at Lucknow in 1937: "These debt relief measures may be justified by the urgency of the crisis through which we are passing but they leave untouched the main question—how should the improvident Indian cultivator—once cleared of his debt—be prevented from getting into debt again". The same idea is also expressed by an eminent writer in an article contributed to the International Review of Agriculture, January 1937, as follows:—"Debt legislation though increasingly resorted to is entirely sporadic and does not usually possess that organic character which in all legislation is indispensable to ensure that it shall be logical and equitable. It consists of temporary and partial expedients which endeavour to regulate in the same way very different cases and give the impression that the remedy is worse than the disease. It is essential to go to the root of the evil, that is, to the insufficiency of the remunerative level of prices and improving the methods of distribution and transport."

21. The real solution is to improve the repaying capacity of the debtor. This would be possible if there is an increase in the return to the agriculturist from his land. At present the level of prices is not sufficiently remunerative and the raising of prices may not be an easy matter but it is possible to do something to improve production, transport and marketing. Possibilities for getting larger income from his lands by inter-cropping and by using better kinds of seeds as suggested by Mr. T. G. Rama Iyer, Director of Agriculture in Mysore, in a paper recently read before the Civil Services Association, should be explored. The debtor's ignorance and illiteracy should be removed and he must be made to understand the value of thrift and temperance. As observed by the Royal Commission on Agriculture, the agriculturist has a large amount of spare time and the possibilities of finding supplementary income through cottage industries have to be expanded. Thus unless a real change of habit and heart is brought about, any relief given to him will only be temporary and his old habits will bring him back into his old position sooner or later.

(*ii*) *Suggested Amendments to the Act.*

22. Before I proceed to deal with the several suggestions that have been made to amend the Act, I wish to refer to one suggestion that was made in all the places regarding the composition of the Boards. As the Debt Conciliation Act aims to establish third party agency to help in arriving at an equitable adjustment of conflicting claims of the debtor and the creditor, the success of the Board depends entirely upon its ability to induce the creditors and the debtors to make an amicable settlement. At present the Revenue Sub-Division Officers are appointed ex-officio Chairmen of the Debt Conciliation Boards. It may be recalled that the original idea of Government was to have judicial officers as Chairmen, but afterwards the Revenue Sub-Division Officers were appointed as Chairmen for the reason that with their local influence and local knowledge they might be better able to persuade the parties to come to an amicable settlement. It is now ascertained that as they have to do conciliation work in addition to other duties, they are finding this work rather

taxing. It also happens that as they are at times urgently called away, the Board will be unable to meet even on dates fixed for the meetings of the Board. If the scheme is to be introduced into all the taluks, the work of the Board will naturally become very heavy and it would practically be impossible for the Sub-Division Officers to cope with this work in addition to their normal work. It was also expressed by some that the Sub-Division Officers being also Income-tax Officers, the creditors were hesitating to go freely before the Board where they have necessarily to produce their account books. Opinion of the public, including some members of the Board, was fairly unanimous that it would conduce to speedier working of the Boards if judicial officers were appointed as Chairmen of the Boards. It is a matter for consideration whether in some places at least experienced judicial officers may not be tried as Chairmen of the Boards.

23. Regarding the strength of the Boards, while some persons advocated a board to consist of five members, others favoured the retention of the present arrangement. Having in view the practical difficulties that may arise in having a large board, with the consequent increased strength of the quorum, it seems to me that the present system of having three members on the Board may continue.

24. I shall now proceed to deal briefly with the suggestions for amending the Act. It is suggested that the Act should be limited to pure agriculturists and that the definition of the term "debtor" should be suitably revised. It is urged that though the preamble to the Act reads that the Act is intended to relieve agriculturists from indebtedness, in view of the definition of the word "debtor" even non-agriculturists and semi-agriculturists are permitted to obtain the benefits of the Act. According to the existing definition it is enough if he happens to possess or even to manœuvre to get a piece of land in the area where the Debt Conciliation Board is functioning. There is, however, no reason to suppose that the provisions of the Act have been abused by persons who are really not agriculturists.

25. Regarding the working of the Central Provinces Debt Conciliation Act, it is observed by Sir M. G. Despande that "the description of the word debtor has given rise to a regular flood of applications from persons who, in fact earn their livelihood by non-agricultural means like business, but would nevertheless pose themselves to be agriculturists because they happen to possess or manœuvre to get an acre of land in the area where the Debt Conciliation Board is operating." But luckily in our Province, there has been no such flood of applications and it does not seem to be necessary to curtail the scope of the Act which is intended to give relief to a wider circle of persons than mere agriculturists. I may also add that according to the finding of the Agriculturists' Relief Committee, the percentage of non-agricultural population in the State is very small.

26. The next suggestion is that a restriction should be placed as to the pecuniary status of the person to whom relief should be given under the Act. It is urged that a distinction should be made between big agriculturists and small agriculturists and as real relief to the debtor requires means to be found for discharging debts and as a last resort these debts might fall on the Government to finance the agency that does it, the possible commitment on that account should be kept within manageable limits. Yet another argument urged in support of this suggestion is that a man who owes big debts must be a man with large assets also and he must be a man presumed to be ordinarily able to pay up his debts in full. In our State, no systematic attempt seems to have been so far made under the authority of Government to ascertain the volume of debt owed by agriculturists in the State. Even the opinion of the Agriculturists' Relief Committee that the rural indebtedness extends to not less than 35 crores of rupees is based on the assumption that the conditions in the State are not different from the conditions in Bombay and Madras where the average debt of an agriculturist is said to be about Rs. 50. Assuming that a maximum of Rs. 5,000 can be deemed to constitute reasonable rural indebtedness, we are not in a position to know what is the proportion of debtors whose total debts exceed Rs. 5,000. In Travancore according to the figures given in the Travancore Census Report of 1931, the proportion of debtors whose total debts exceed Rs. 5,000 was only 1·25 per cent. If in our State also the percentage of such debtors should be the same, their inclusion will not affect appreciably the number of debtors brought within the scope of the Act. It would be interesting to know that out of a total number of 622 applications filed before the Boards in our State, there are only 28 applications involving a debt of more than Rs. 5,000.

27. The economic depression has affected equally both the big and the small agriculturists. Both of them are equally in need of relief. On account of general financial status, it seems unnecessary to make an innovation, that would create an invidious distinction. Moreover, as observed earlier, it is most unlikely that the State would undertake to pay for creditors or guarantee payment to them, and therefore the argument that if big debts are included the total amount of debt to be dealt with would be beyond the possibility of redemption loses its force. I may also refer in this connection to the observations of *Rajamantrapravina* Mr. S. P. Rajagopalachari, the then First Member of the Council, when he moved that the Debt Conciliation Bill as amended by the Select Committee be taken into consideration. "As the Bill will apply only to settlements on voluntary basis, the value of the debts which are to be conciliated is not a very material point. If larger sums than Rs. 10,000 could be dealt with under the Bill, I say so much the better for all concerned and the country as well."

28. During my enquiry it was also brought to light that some persons who are burdened with heavy debts have also a number of small debts due to them. If the restriction suggested above is adopted, it would have the effect of cutting down their assets while their debts would be left intact, a contingency which should be avoided as far as possible. In view of the foregoing considerations, it seems to me that no restriction need be placed regarding the pecuniary status of the debtor. In this connection I may be permitted to observe whether it is not desirable to make a survey of agricultural indebtedness in the State by taking advantage of the coming Census Operations in 1941 by collecting the necessary statistics in this behalf. (In the last Census of 1931, such information seems to have been collected in Travancore.)

29. Section 3 provides that the Board shall consist of a Chairman and two members. Rule 3 (1) provides that the quorum necessary for the transaction of business at a meeting of the Board shall be two, of whom one shall be the Chairman. Whenever a vacancy occurred consequent on the death or resignation of a member of the Board in view of the mandatory provision of section 3 (1), the Boards cannot function till the vacancy is filled up. It was urged that so long as the Board has the necessary quorum it should be made possible for the Board to function notwithstanding any vacancy. It seems desirable to introduce a clause as is done in the Bombay Agricultural Debtors Relief Act, 1939, that the occurrence of any vacancy on the Board through death or resignation or removal of its members shall not in any way affect the validity of any proceedings pending before the Board and the said proceedings shall be continued before the said Board as if there was no occurrence of any such vacancy. I may also add that in the rules under the Central Provinces Act it is provided that a "Board having a quorum may act notwithstanding any vacancy in the number of its members other than the Chairman."

30. Debt as defined in section 2 (*e*) excludes from the operation of the Act arrears of wages, land revenue or anything recoverable as arrear of land revenue, rent as defined in the Mysore Land Revenue Code or any money for the recovery of which a suit is barred by limitation. It was urged that this definition works as a hardship to persons who have got a right to get maintenance either under decree of court or otherwise and that such liability in respect of maintenance should also be excluded from the definition of the debt. There is much force in this contention as the persons to be affected happen to be either helpless women or minor children. It is therefore desirable that the definition of debt is suitably amended by excluding any liability in respect of maintenance whether under a decree of court or otherwise. It is also for consideration whether it is not also desirable to amend the definition so as to exclude any tax, cess or payment due to any municipality or village panchayet or other local authority.

31. It was urged in all the places that the Act is one-sided—all against the moneylender. There are so many penalty clauses in the Act that even a slight mistaken procedure on the part of the creditor means discharge of his debts. But there is no such penalty for the debtor. In respect of the petition filed by the creditor, the debtor may or may not appear before the Board and though he may have appeared at one stage, he may discontinue to appear later on with impunity. The creditor finds his position helpless and his application is perforce to be dismissed. He naturally feels that the Act is discriminatory and that in fairness the debtor should not be allowed to have his own way and there must be some

penalties which will induce him to appear before the Board. It is true that the Act is mainly intended for the benefit of the debtor and if in respect of an application filed by a creditor, the debtor does not comply with the notice or fails to furnish particulars and in consequence the application gets dismissed, it is the debtor that ultimately suffers. But all the same the creditor and the Board should not be left to the mercy of the debtor and he must also be made to feel that his indifference would be visited by some sort of penalty. I would therefore suggest that we may introduce in our Act a provision similar to section 13 (3) of the Bengal Agricultural Debtors Act that if any debtor fails to comply with a notice under section 8 (2) or to furnish particulars under section 8 (3) and the Board consequently dismissed the application, it may allow against the debtor such costs as it considers reasonable and such costs will be recoverable as an arrear of land revenue on an application made within ninety days by a creditor to whom the same is due.

32. Another point that was seriously urged at all places was the abuse by unscrupulous debtors of the provisions of section 26 and the right to file any number of applications. It was urged that the beneficial effects of Agricultural Relief (Amendment) Act, 1935, is practically nullified by the Debt Conciliation Act, inasmuch as when a property is brought for sale, the debtor files an application before the Board and consequently the further execution proceedings in the Civil Court are automatically stayed. The debtor does not stop there. Once the sale of his property is stayed, he grows indifferent about the prosecution of his application before the Board and finally allows it to be dismissed for default or for failure to furnish particulars. When the creditor again takes the trouble and brings the properties to sale, the debtor in his turn files a fresh application before he Board and has the satisfaction to see that further proceedings before the Civil Court are stayed. The creditor is thus in a way effectively prevented, by the lishonest methods of the debtor, from reaping the fruits of his decree. To use the vords of Castello J. : " It is possible even under the general law for a dishonest lebtor, even if he be a judgment-debtor, to evade his just obligations and to avoid lischarging the debt which he undoubtedly owes. But now a further weapon has been placed in the hands of the dishonest debtors in the shape of the intervention of the Debt Settlement Boards ". (See Manindra Mohan *vs.* Bepin Behari 41 C. W. N. 1370.) It is therefore urged that some restriction should be placed on the debtor's right to file successive applications before the Board. There seems to be much force in this contention. There has recently been a decision of the Madras High Court that the debtor is entitled to have the proceedings stayed only once and when he allows his petition before the Board to be dismissed and comes again with a fresh application he is not entitled to get relief under section 26. (A. I. R. 1940, Madras. 31.)

33. It is not possible to say what view of the law our High Court would take when a similar question goes before them. Irrespective of the debtor's right to get the proceedings stayed on a second application, it seems necessary that some check should be placed on his vagaries. Otherwise the valuable time of the Board is wasted and the creditors are also unnecessarily harassed. In Punjab Relief of Indebtedness Act a bar has been placed on the right of the debtor to file successive applications. Section 19 of that Act provides that if once an application has been made by a debtor and disposed of, no Board shall entertain a second application within two years of the date of disposal of the first application. A similar provision may be incorporated in our Act, limiting the period of disability to one year only. This would greatly satisfy the creditors and make the debtors prosecute their applications diligently.

34. *Section 9.*—During the enquiry it was represented that with a view to defraud creditors certain debtors alienated their properties and then applied to the Debt Conciliation Board for the conciliation of their debts and that it was necessary that such practices should be discouraged. A clause may be added to section 9 that where the Board is satisfied that the debtor has within 180 days before the date of the application made by him under section 4, transferred any of his property with intent to defraud his creditors, it shall dismiss the petition.

35. *Section 14.*—In an earlier portion of my report I have stressed upon the desirability and the necessity for strengthening the element of compulsion, without coming into conflict with the principle of conciliation on voluntary basis. This could be achieved if power is given to the Board to pass

an order that where an agreement is arrived at between the debtors and creditors to whom more than 50 per cent of the debts are due, the other creditors should accept an offer made by the debtor, if in the opinion of the Board the offer is a fair one. Such a procedure is in force in Bengal and is said to be working well. (See section 19 (*b*), Bengal Agricultural Debtors Act. There, it is enough if creditors to whom only 40 per cent of the debts agree.) When the creditors to whom more than 50 per cent of the debts are due, agree to a settlement, it will not be unfair to infer that the agreement is a fair one and no serious harm is likely to be caused to other creditors if it is ordered that their debts shall also be settled in accordance with the offer made by the debtor. (This method of compulsion is not novel. Even under the Insolvency Act a composition scheme which in effect corresponds to the scheme of debt conciliation, is binding on all creditors if a majority in number and three-fourths in value of all the creditors whose debts are proved, accept the proposal. See section 38 of the Insolvency Act.) It is possible that in some cases of conciliation, genuine creditors suffer, because of the fictitious creditors entered in the list. The fictitious debts are introduced to overcome the difficulty of securing the consent of creditors to whom more than 50 per cent of the debts are owing, and also to force the unwilling creditors to come to an agreement as otherwise their right of recovery would be postponed. But any discovery of such fraud would make the application liable to be dismissed, and simply because it is likely that the provisions of the Act are likely to be abused by some dishonest debtors, it is no reason why its beneficial effects should be denied to a larger number of honest debtors. It seems to me therefore that the popular wishes regarding the introduction of the element of compulsion may be conceded to the extent provided in section 19 (*b*) of the Bengal Agricultural Debtors Act and section 14 of our Act amended accordingly.

36. Another important representation from almost all the persons in all the places was to the effect that unless the distinction now made between secured and unsecured creditors is removed, no real benefit will accrue to the debtors from the Debt Conciliation Act. It was urged that the majority of the debts were secured debts and in view of the second proviso to section 14, the secured creditors were generally unwilling to agree to conciliation, with the result that the Boards were feeling helpless when any secured creditor or a number of secured creditors to whom more than 50 per cent of the debts were owing were not agreeable to reduce debts as suggested by the Board. It is true that section 19 provides that where a creditor has unreasonably refused to accept an offer made by the debtor which, in the opinion of the Board, was a fair offer, the Board has the power to give a certificate which will have the effect of disentitling the creditor to future costs of suit and to claim interest in excess of 6 per cent. This has not, however, acted as a sufficient deterrent on the secured creditor. The reason for the secured creditor's reluctance to join in the agreement must be something different from the protection given to him under the 2nd proviso. This attitude on the part of the secured creditor can easily be understood if we consider his position under the existing Act. The position seems to be somewhat as follows. When a secured creditor enters into an agreement with the debtor, his mortgage lien on the mortgage property would be extinguished and his position would be little better than that of an unsecured creditor. If he refuses to agree to the settlement, his right to proceed against the secured property is protected by the 2nd proviso to section 14. The Board can no doubt grant a certificate under section 19, but as already observed, the certificate has no deterrent effect. In fact, it would not be surprising if a secured creditor believes that by refusing to enter into an agreement he would gain more than by entering into an agreement, and losing his lien on the mortgage security. It is desirable therefore than an amendment is introduced with a view to induce him to come to a settlement without fear of losing his lien on the mortgage security. It was with this object that the Central Provinces Debt Conciliation Act was amended in 1936 by adding section 12-A, whereby the mortgage security of a secured creditor joining in an agreement is permitted to subsist until the amount due to him has been paid or the property has been sold for the satisfaction of such debt. Section 27 of the Bengal Agricultural Debtors Act also contains a similar provision. I would therefore suggest that our Act may also be amended by adding a provision corresponding to section 12-A of the Central Provinces Debt Conciliation Act. With this amendment, one may be sure that the reluctance of the secured creditor to come into an agreement will be very much reduced. In view of the suggestion made in the previous paragraph to amend the section on the lines of section 19 (*b*)

of the Bengal Agricultural Debtors Act, the 2nd proviso to section 14 may also be suitably modified.

37. Debts due to Co-operative Societies are included within the scope of the Act, for the definition of a creditor includes a co-operative society. But the first proviso to section 14 provides a special safeguard to co-operative societies that when a co-operative society is one of the creditors, no settlement, in so far as it affects the debts owing to such society, shall be valid without the previous approval in writing of the Registrar of Co-operative Societies in Mysore. Opinion was fairly unanimous that the co-operative societies as at present worked did not deserve this preferential treatment. They stated it was their experience that the societies were not as a rule more inclined to be generous than the average creditor so that the Act may be made as much applicable in their case as in the case of other creditors. The reason for this exemption being granted to the co-operative societies is probably for the reason that these societies are intended to work in the interests of debtors and their aim, unlike that of the moneylenders, is not to deprive them of their holdings. It is, however, urged that the societies are charging high rate of interest, a higher penal rate in case of default and that they are also recovering advance interest. They stated that the interest charged by the Co-operative Societies would thus generally be not less than what an ordinary moneylender was charging.

38. The Committee on Co-operation in Mysore have observed in their report: "There is an impression, which is not without a basis of fact, that the sowcar is often more lenient in his attitude than a co-operative society can afford to be." In this connection certain observations made by Reilly, C. J. in 15, Mysore Law Journal 230, may not be out of place. "The plaintiffs in this case are a Bank. But perhaps any one who had only heard my description of the transactions with which we have been concerned would be surprised to hear that they are called a 'Co-operative Bank.' Their transaction with defendant might be represented as taking the name of 'Co-operation' in vain. The rates of interest they exacted .....appear to me very strange. Eleven per cent was itself a high rate of interest; and 15 per cent in default was an extraordinarily high rate of interest, as they profess to have been satisfied that the security in this case was ample..... And he (Advocate for the Bank) also tells me, what surprises me more, that it is usual for Co-operative Banks in this State to deduct from amounts advanced something for interest in anticipation..... ..... One result of that is that the rate of interest stated in a borrower's document regarding a loan misrepresents the actual rate of interest to be paid by the borrower, and in the case of an ignorant borrower, will almost certainly mislead him. It was one of the most objectionable tricks of usurers in other parts of the world to require their borrowers to pay interest in advance. It is to my mind very surprising that co-operative institutions should continue that method of misrepresenting the interest which they are going to take from borrowers..... When we find that co-operative methods or what are called 'Co-operative methods' work in this way, it is perhaps not so difficult to understand why co-operation has not succeeded in relieving agriculturists of their indebtedness..... .....I hope that those who are in control of this Bank and the Registrar of Co-operative Societies will take into consideration what I have said about the rate of interest and the methods adopted by the Bank."

39. Apart from these unsatisfactory features of the working of the co-operative societies, there are other reasons why the co-operative societies should not be placed in a privileged position.—(i) conciliation must comprise the entire debt if it is to be effective; (ii) a preferential right given to the co-operative societies would cause a grievance to private creditors. For these reasons, Prof. P. J. Thomas doubts the wisdom of the decision to give a preferential treatment to the Co-operative Societies. The Travancore Debt Relief Enquiry Committee has also recently recommended that the legislative measure that is going to be passed regarding scaling down of debts should apply also to co-operative societies and co-operative banks. In view of these considerations, it seems desirable that instead of exempting all the societies generally, the Government should be empowered to exempt particular societies or classes of societies at their discretion, so that this concession may be extended only to such of the societies as they consider to be deserving thereof by reducing the lending rate and abolishing penal interest and giving up the objectionable practice of collecting interest in advance (Compare section 25-A of the Agriculturists Relief Act.)

40. *Section 17.*—This section provides that if no amicable settlement is arrived at within 12 months from the date of application, the Board shall dismiss the application. It was urged by some of the members that it is desirable to give certain amount of discretion to the Board to keep applications pending for a longer time when the Board is convinced that honest attempts are being made for arriving at settlement and where neither of the parties is responsible for the delay. It is expected that the proceedings of the Board should be rapid and as free as possible from the intricacies and technicalities of the ordinary civil proceedings. Even in the Civil Courts a time limit of one year is in a way insisted upon for disposing of all cases and the delay in some cases pending before the Board is probably due to the fact that the Boards have not been meeting very often and the petitioners are not diligently prosecuting their petitions. Any relaxation from the mandatory provisions of section 17 is not unlikely to prolong the duration of a petition much beyond one year. A perusal of the tabular statement will show that the average duration of cases ending in agreement is about six months. Even allowing for some delay owing to unexpected causes it should not be difficult to dispose of cases normally within a period of one year. It seems to me, therefore, there is no real necessity to amend the section in the way suggested.

41. *Section 18.*—There is no provision as to what the debtor should do if the creditor refused to accept any amount tendered to him in accordance with the terms of the agreement or in those cases where the creditor is dead and his heirs are not known or where there is a dispute as to who the heirs of the deceased creditor are. To provide for such contingencies a provision may be made in our Act corresponding to the provisions under section 13-A to 13-D of the Central Provinces and Berar Act. (Even the Central Provinces Debt Conciliation Act was amended in that behalf in 1936.)

42. *Section 19 (1).*—One of the most important things to be taken into consideration in deciding whether an offer made by the debtor is fair or not is the repaying capacity of the debtor. Though this aspect might be said to be covered by item No. (6) in sub-clause (1), it is desirable that a specific clause to the effect is embodied in that section.

43. *Section 23*:—There seems to be a widespread feeling that the aggrieved parties should have the right of appeal or at least of revision against the order of Debt Conciliation Boards. In an article in the Indian Co-operative Review for January-March, 1939, regarding Debt Relief in the Central Provinces, Sir M. G. Deshpande observes: "The crowning absurdity of the Act is that there is no provision for any revision or appeal against the order of the Debt Conciliation Board. The Board has jurisdiction over cases involving an amount of Rs. 50,000 (Our Boards exercise no limit of pecuniary jurisdiction) whose Chairman is an officer of the Provincial Service, is final. This is not only absurd but entirely prejudicial to the interests of the creditors, in fact, against all principles of equity and fairplay." But it must be remembered that "the Conciliation Boards are not courts in the ordinary sense of the word, and they are more or less executive and advisory bodies, advisory to the parties who come before them." When the High Court were consulted before introducing the Bill, they were strongly of opinion that throughout their activities, it was desirable that the Boards should not be trammelled by the strict procedure of courts and that their proceedings should not be subject to revision by the High Court. But in view of the various amendments proposed to the Act which, if adopted, may affect in various ways the rights of the parties that appear before the Boards, it may be desirable to give the aggrieved parties a right to have the correctness of the Board's decision tested by another tribunal. The Board's proceedings being of a summary nature it would not be practicable to give a right of appeal. But granting a right to the aggrieved parties to take up the orders of the Board under certain sections of the Act in revision to the District Judge's Court within whose jurisdiction the Boards are situated, may be favourably considered.

44. *Section 25*:—The section provides that in any proceedings before the Board any party may appear with the permission of the Board by a legal practitioner. A perusal of the last two columns in the appended Statement I shows that while legal practitioners have appeared only in a few cases before certain Boards, they are freely allowed to appear in a number of cases before the other Boards. In all the places that I visited, the opinion regarding the appearance of lawyers in the proceedings before the Board was somewhat divided, some advocating that in the

interests of clients and particularly the creditors living in various places, it would be desirable to allow lawyers, some others were equally definite that the presence of the lawyers retarded the speedy disposals of the cases before the Board. I might also observe that even the members of the Bar were not agreed regarding the desirability of generally allowing the lawyers to appear in the proceedings before the Board. It is generally felt that the presence of legal practitioners would make the proceedings prolonged and complicated and the atmosphere of friendly and practical negotiations and accommodation would be greatly affected and that of litigation re-introduced. In Bengal and Central Provinces as also in Hyderabad, legal practitioners are prohibited from appearing in the proceedings before the Board. Regarding the appearance of legal practitioners before the Board, our Act follows the Madras Act. The proceedings of the Madras Legislative Council when the Bill was under discussion shows that it was with a view to provide for certain exceptional contingencies that a provision was made for the qualified appearance of legal practitioners. Even in the recently enacted Bombay Agricultural Debtors Relief Act, pleaders, vakils and mukhtyars are generally excluded from appearing in proceedings before the Board; a proviso is however added that if the Board, after examining the parties to any proceedings before it, is of opinion that any of the parties is not sufficiently competent to represent his case and that in the interests of justice it is necessary to allow such party, the assistance of any pleader, vakil or mukhtyar, or advocate or attorney of High Court, the Board may allow such party at its own cost to be represented by pleader, vakil, mukhtyar, or advocate or attorney of High Court. I think it is desirable to enact a similar provision in our Act, so that the Boards may allow the appearance of lawyers only in deserving cases and not as a matter of course as is now being done.

45. *Section 26*:—This section relates to the suspension of the suit or other proceedings pending before a Civil Court when an application has been filed before the Board in respect of debt relating to the said proceedings. So far as the decrees passed by the Registrar of Co-operative Societies are concerned, they may be pending execution, either before the Civil Court or before the Revenue Court. The section as it stands does not apply to the execution petitions pending before the Revenue Courts. It is possible that before the approval of the Registrar is obtained for any proposed settlement with the society and the Board could act upon it, execution proceedings before the Revenue Court might have successfully terminated and the debtor's properties sold away and purchased by a stranger. In such a case, the debtor is sure to lose the benefits of the settlement with the co-operative society. It is therefore desirable that just as in the case of proceedings before a Civil Court, a provision is also made to stay the proceedings before a Revenue Court when an application is filed before a Debt Conciliation Board. Similar relief is also necessary in respect of money disputes pending before the Registrar of Co-operative Socieites. It was urged in all the places that such relief was urgently called for in view of the fact that a number of decrees of co-operative societies are pending execution before Revenue Courts and that cases are also pending before the Registrar of Co-operative Societies. I would therefore suggest that section 26 may suitably be amended by the addition of the words "or Revenue Court or the Registrar of Co-operative Societies" after the words "Civil Court."

46. During my enquiry I had occasion to notice that even after sales were held by the Civil Courts but before confirmation, further proceedings in the Civil Court are stayed when an application is filed before the Board subsequent to the date of the sale. It is doubtful if after the sale is held the proceedings could be stayed. It has been held in A. I. R. 1937, Nagpur 98, that when the property has been sold in execution of a decree, the title of the auction purchaser vests in him from the date of sale subject to confirmation, which is inevitable in the absence of any objection and there is nothing in section 21 (corresponding to section 26 of our Act) to prevent the court confirming the sale. In order to make the position clear an explanation may be added to section 26 that: "For the purpose of this section, the execution proceedings for the sale of any property shall be deemed to be pending until such sale becomes absolute."

47. I had also occasion to notice that one of the Boards had conciliated a joint debt on an application filed by one of the executants to the bond in the absence of his co-debtor. There is no provision in our Act empowering the Boards to conciliate a joint debt while one of the parties to the document is not before the

Board. The reason is obvious that any settlement by a creditor with his debtor behind the back of the surety will discharge the liability of the surety. It is, however, necessary that the Board should be invested with power to deal with such debts also with a proviso safeguarding the rights of the creditor to proceed against the absentee debtor. Such provisions are to be found in the Bengal Agricultural Debtors Act and also in the recently enacted Bombay Agricultural Debtors Relief Act.

48. I should like to make one other suggestion. In good many cases where the debts are far in excess of the assets, no conciliation is possible and repayment of the debt is also out of the question; and insolvency seems to be the only proper solution; but most agricultural debtors would not resort to it willingly. At present when such cases come before the Board, the applications are dismissed on the ground that conciliation is impracticable. Mere dismissal on this ground will not help either of the parties. When the debtor is past redemption it is no use to allow him to continue in that condition. As remarked by the Agriculturists Relief Committee: "Such debtors should be afforded a chance of surrendering all their assets and being adjudged insolvents so that they may earn their living, if they can, freed from the perpetual bondage of an impossible debt." A provision may therefore be made in the Act requiring the Boards in such cases, to report the matter to the Court having jurisdiction which may deal with the reference as if it were an application under the Mysore Insolvency Act.

IV. Concluding Remarks.

49. Subsequent to the passing of the Government Order directing an enquiry into the working of the 6 Debt Conciliation Boards then in existence, the scheme was extended by establishing a Board at Chikmagalur with effect from 31st February 1940, with the Deputy Commissioner as Chairman. The jurisdiction of the Board extends over two taluks of Chikmagalur and Mudgere, the two important coffee growing taluks in the State. The cases that have already come before the Board indicate that it is likely that the Board would have to deal with a number of applications involving a debt of over Rs. 5,000. The question of financing these debtors to pay up to the conciliated debts (which will generally exceed Rs. 5,000) will also be of special importance. The working of this Board will thus be of special value for the reason that it deals with big agriculturists and is presided over by a high officer like the Deputy Commissioner.

50. Coming to the amendments suggested by me, I am afraid that they may seem too drastic to some, while they may appear too halting or inadequate to some others. But I may assure these persons that they have been suggested with due regard to the welfare of the State as a whole. The suggested amendments are expected to give better relief to the debtors without giving any reasonable ground for any feeling of alarm on the part of the creditors.

Nobody can deny that the problem of agricultural indebtedness has been agitating the minds of all for a long time and is not capable of easy solution. But this feeling need not deter us from our attempts to find proper means to give relief to the debtors. As remarked earlier, the debt legislation may consist of only temporary and partial expedients and the peasant, once relieved of his debts, may again come back to his old state of indebtedness sooner or later. But "no doctor would, however, refuse to give the prescription for improving the condition of the patient through the fear that the patient might lapse back into the same state of malady."

Before concluding, I may be permitted to express my gratitude to the benign Government for their kindness in giving me an opportunity to study the working of the Debt Conciliation Scheme in the State, and express my views and offer my suggestions on the problem of indebtedness which vitally affects the well-being of the vast rural population in the State.

25th March 1940. B. K. RAMAKRISHNAIYA

Summary of Recommendation.

Sl. No.	*Para No.*	
1	15	A complete adoption of compulsion is not immediately necessary or advisable.
2	,,	The element of compulsion already present in the Act should, however, be strengthened
3	16	Arrangements for immediate payment of settled debts is highly desirable.
4	,,	Payment of settled debts should be arranged through the Land Mortgage Banks and Co-operative Societies.
5	17	The maximum limit up to which loans may be granted by the Land Mortgage Banks may be raised from 50 per cent to 70 per cent of the market value of the security.
6	18	The minimum amount for loans granted by the Land Mortgage Banks should be lowered to Rs. 100.
7	,,	The upper limit of Rs. 5,000 should be raised in deserving cases where adequate security is forthcoming.
8	19	Land Mortgage Banks should be opened in all places where the Debt Conciliation Boards are established.
9	,,	The work of the Land Mortgage Banks and the Debt Conciliation Boards should be Co-ordinated.
10	21	The repaying capacity of the debtor should be improved.
11	22	Judicial Officers may be tried as Chairmen of the Debt Conciliation Board in some places.
12	23	It is not necessary to increase the strength of the Board.
13	25	It is not necessary to amend the definition of 'debtor,' limiting the scope of the Act to pure agriculturists only.
14	28	No debtor need be excluded on account of his pecuniary status or of his being heavily indebted.
15	,,	Statistics regarding the agricultural indebtedness may be collected in the coming census operations of 1941.
16	29	Section 3 to be amended by adding a saving clause enabling the Board to function notwithstanding any vacancy due to death, resignatisn or removal.
17	30	The following debts to be excluded from the definition of debt— (i) Claim for maintenance either under a decree of court or otherwise; (ii) Tax, cess or payment due to municipality, village panchayet or other local authority.
18	31	The Board may be empowered to order costs when dismissing a petition for failure of a debtor to comply with a notice under section 8 (2) or to furnish particulars under section 8 (3).
19	33	A provision to be made in the Act., placing a bar on the right of the debtor to file successive applications.
20	34	Section 9 to be amended by the addition of a clause making the application liable to be dismissed if the Board is satisfied that an alienation by the debtor within 180 days before filing the petition was with a view to defraud the creditors.
21	35	Section 14 to be amended by empowering the Board to pass an order directing an unwilling creditor to accept a fair offer by the debtor, where creditors to whom more than 50 per cent of the debts are owing, agree to an amicable settlement with the debtor.
22	36	Section 14 to be amended by permitting the existing mortgage or lien or charge to subsist when a secured creditor agrees to a settlement.
23	,,	Second proviso to section 14 also to be suitably amended.
24	39	First proviso to section 14 to be omitted and power taken by Government to exempt such societies as in their opinion deserve the preferential treatment.
25	40	It is not necessary to extend the period of one year prescribed in section 17.
26	41	Act to be amended by making provision for deposit of the amount by the debtors.
27	42	A specific clause to be added to section 19 that the repaying capacity of the debtor should also be taken into consideration.
28	43	Right of revision against certain orders of the Debt Conciliation Board may be allowed.
29	44	The appearance of lawyers before the Board should be restricted.
30	45	Section 26 to be amended by providing for stay of proceedings before the Revenue Court and the Registrar of Co-operative Societies.
31	46	An explanation to be added to section 26, that execution proceedings should be deemed to be pending until the sale becomes absolute.
32	47	The Boards to have power to conciliate joint debts, even when only one of the debtors files the application before the Board.
33	48	In cases where the debts are far in excess of the assets, the Board should refer the debtor to the Insolvency Court.

25th March 1940.

B. K. Ramakrishnaiya,

APPENDICES.

STATEMENT

Statement showing the working of the

Year	Cases pending at the beginning of the year		Cases registered during the year				Cases disposed of during the year									
			By debtors		By creditors		Rejected under Section 7		Dismissed under Section 9		Agreements executed under Section 14					
	Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Percentage of cases, etc.	Value of claims which have been compounded		Amount for which claims have been compounded	
	2	3	4	5	6	7	8	9	10	11	12	13	14		15	
		Rs. a. p.		Rs. a. p.		Rs. a. p.		Rs. a. p.		Rs. a. p.			Rs. a. p.		Rs. a. p.	
Sagar, 1938-39 ...	...	...	84	1,84,126 0 0	20	24,387 0 0	37	77,458 0 0	31	85,569 0 0	11	10·5	5,991 0 0		5,234 0 0	
Do 1939-40 (1st half).	25	39,495 0 0	19	26,225 4 0	1	627 3 0	14	20,391 11 6	4	5,659 9 6	4	8·9	2,386 0 0		2,196 0 0	
Total ...	...	...	103	2,10,351 4 0	21	25,014 3 0	51	97,849 11 6	35	91,228 9 6	15	12·1	8,377 0 0		7,430 0 0	
Shikhallapur, 1938-39.	...	...	23	47,013 10 10	27	20,388 8 0	13	16,542 7 10	19	26,861 9 0	...	...	...		...	
Shikhallapur, 1939-40.	18	23,948 2 0	15	57,799 4 9	6	8,084 12 0	2	3,141 0 0	21	24,972 0 0	2	5·2	6,058 6 5		3,050 0 0	
	...	...	38	1,04,812 15 7	33	28,423 4 5	15	19,683 7 10	40	51,833 9 0	2	2·8	6,058 6 5		3,050 0 0	
Madhugiri, 1938-39 ...	...	...	57	1,12,682 14 3	4	1,900 0 0	2	2,434 11 0	25	26,960 8 6	8	13	2,962 13 3		2,408 12 3	
Do 1939-40 (1st half).	26	82,217 13 9	9	8,859 7 6	2	1,803 12 0	...	...	6	16,141 12 0	1	4	1,468 10 0		750 0 0	
	...	...	66	1,21,542 5 9	6	3,703 12 0	2	2,434 11 0	31	43,102 4 6	9	12·5	4,488 7 3		3,158 12 3	
Devanhalli, 1938-39. ...	...	...	26	28,556 1 9	18	11,203 14 0	2	647 12 0	11	6,740 8 0	8	18·2	6,574 12 0		3,772 3 3	
Do 1939-40 (1st half).	23	20,796 15 9	30	32,404 9 0	13	3,690 12 0	...	...	25	27,294 0 0	9	13·6	4,489 1 0		1,131 2 0	
	...	...	56	55,960 10 9	31	14,894 10 0	2	647 12 0	36	34,034 8 0	17	19·5	11,063 13 0		4,903 5 3	
Nagamangala, 1938-39.	...	...	67	67,228 2 6	46	21,988 15 10	10	8,702 11 4	7	4,248 10 6	10	8·8	17,882 9 8		11,326 6 3	
Nagamangala, 1939-40 (1st half).	86	58,433 5 10	11	4,300 0 0	84	29,740 5 6	...	...	33	19,447 9 0	7	3·8	5,220 10 9		3,421 4 9	
	...	...	78	71,528 2 6	130	51,429 5 4	10	8,702 11 4	40	23,696 3 6	17	8·1	23,063 4 5		14,747 11 0	
Koppa, 1938-39 ...	...	...	36	1,04,220 1 2	...	...	1	12,881 0 0	4	6,574 9 0	2	5·5	2,111 13 0		1,955 5 0	
Do 1939-40 (1st half).	29	82,652 11 3	15	34,355 4 5	9	9,411 4 7	...	...	8	12,330 13 6	2	3·8	750 0 0		675 0 0	
	...	...	51	1,38,575 6 8	9	9,411 4 7	1	12,881 0 0	12	18,905 6 6	4	6·6	2,861 13 0		2,630 5 0	
Grand Total ...	...	...	392	7,02,770 12 3	280	1,33,176 7 4	81	1,42,199 5 8	194	2,62,801 9 0	64	10·28	55,852 12 1		35,920 1 6	

Total number of applications : Columns 4 and 6 : 622.
Total amount Columns 5 and 7—Rs. 8,35,947-9-7.

Debt Conciliation Boards in the State.

Percentage of remission	Cases dismissed under Section 17		Cases pending at the close of the year		Number of certificates issued under Section 19 (1)			Average number of instalments fixed for payment of debt	Number of cases in which applications for review were filed	Number of witnesses examined during the year	Average duration of cases ending in agreement	Number of days on which the Board met	Number of cases in which lawyers appeared	
	Number	Amount	Number	Amount	Number of cases	Number of certificates	Amount due to creditors to whom certificate is granted						For debtors	For creditors
16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
		Rs.		Rs. a. p.			Rs. a. p.				Mths. days.	Days.		
12·5	...	...	25	39,495 0 0	...	...	...	10 to 12 instalments	3	...	4 0	36	36	28
8·0	...	...	23	37,910 2 0	...	...	...	Do	2	...	4 0	11	17	18
11·3	...	...	..	...	...	...	...	...	5	...	...	..	....	...
...	...	...	18	23,948 2 0	...	...	...	...	3	...	..	Information not furnished	...	...
49·67	.	...	14	55,660 12 9	...	...	...	...	5	...	...		...	...
49·67	...	...	...	...	...	...	...	...	18	...	...	...	...	...
18·8	...	..	26	82,217 13 9	1	1	225 0 0	5	2	5	4 8	39	6	26
49·9	3	36,050	27	39,220 5 0	...	...	...	5	...	...	5 4	21	5	6
28·8	3	36,050	...	..	1	1	225 0 0	...	2	5	...	...	...	...
42·6	...	...	23	20,796 15 9	1	1	1,500 0 0	9	1	...	9 15	18	2	13
74·7	...	...	82	25,109 3 9	2	2	202 0 0	3	1	...	5 15	21	3	18
55·8	...	...	...	...	8	8	1,702 0 0	...	2	...	...	...	...	...
36·4	...	...	86	58,433 5 10	1	1	356 14 0	...	5	...	6 0	12	1	3
34·4	1	6,900	140	60,905 1 7	6	6	3,781 2 0	...	2	...	6 0	11	1	2
35·9	1	6,900	...	...	7	7	4,138 0 0	..	7	...	...	...	...	...
7·4	...	...	29	82,652 11 8	1	1	556 5 0	..	...	...	6 0	21	23	18
10·0	...	...	43	1,03,290 0 9	4	10	4,645 18 10	...	2	4	6 0	21	21	22
8·0	...	..	...	...	5	11	5,202 2 10	...	2	4	...	...	...	...
17·62	4	42,950	279	3,82,144 2 10	16	22	11,267 2 10	...	31	9	...	...	...	...

Total number of applications: columns 8 and 10: 275.
Total amount of columns 9 and 11—Rs. 4,05,000-14-8.

STATEMENT II.

Abstract of statement showing the Receipts and Expenditure of the Debt Conciliation Boards for the year 1938-39 and first-half of 1939-40.

Name of the Board	Year	Receipts	Expenditure
		Rs. a. p.	Rs. a. p.
Sagar	1938-39	127 13 0	626 3 0
	1939-40 (First half-year)	31 4 0	202 13 0
Total ...		159 1 0	829 0 0
Chikballapur	1938-39	67 13 0	480 8 0
	1939-40 (First half-year)	34 6 0	252 2 0
Total ...		102 3 0	732 10 0
Madhugiri	1938-39	45 12 0	609 0 0
	1939-40 (First half-year)	15 0 0	251 4 0
Total ...		60 12 0	860 4 0
Devanhalli	1938-39	92 11 0	542 6 0
	1939-40 (First half-year)	51 8 0	240 0 0
Total ...		144 3 0	782 6 0
Nagamangala	1938-39	106 6 0	560 1 6
	1939-40 (First half-year)	104 14 0	366 9 6
Total ...		212 4 0	926 11 0
Koppa	1938-39	88 5 0	530 2 0
	1939-40 (First half-year)	93 7 0	280 6 0
Total ...		181 12 0	810 8 0
Grand Total ...		860 3 0	4,941 7 0

STATEMENT III.

Consolidated statement showing the total number of applications filed before the Debt Conciliation Boards involving debts of more than Rs. 5,000 for the years 1938-39 and first-half of 1939-40.

Name of the Board	Number of applications filed before the Board involving debts of more than Rs. 5,000	
	1938-39	1939-40
Sagar	9	...
Chikballapur	1	3
Madhugiri	4	...
Devanhalli	...	1
Nagamangala	4	...
Koppa	5	1
Total ...	23	5 (28)

STATEMENT IV.

Statement showing the number of original suits and execution cases in which the proceedings were stayed under Section 26 of the Debt Conciliation Act and the stage at which the proceedings were stayed in the Courts of the Munsiffs of Sagar, Madhugiri, Narasimharajapura, Mandya and Chikballapur from 1st July 1938 to 31st December 1939.

Name of Court	Applications filed for stay of proceedings			Stage at which the proceedings are stayed					
				At the stage of					
	Original suits	Execution cases	Total	Issue of summons or notices	Evidence	Issue of arrest warrants	Issue of attachment warrant	Sale	At other stages
MUNSIFF'S COURT.									
1. Sagar ...	6	40	46	1	2	4	...	36	3
2. Madhugiri ...	5	21	26	...	...	...	...	13	13
3. Narasimharajapura ...	9	27	36	2	5	...	4	14	11
4. Mandya ...	27	22	49	*	...	...	...	...	...
5. Chikballapur ...	19	*	19	...	4	...	...	...	15
Total	66	110	176	3	11	4	4	63	42

*Information not furnished.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. R 1105
LR 323-39-23

Dated, Bangalore, 4th July 1940.

From

The Chief Secretary to the Government of His Highness the Maharaja of Mysore.

To

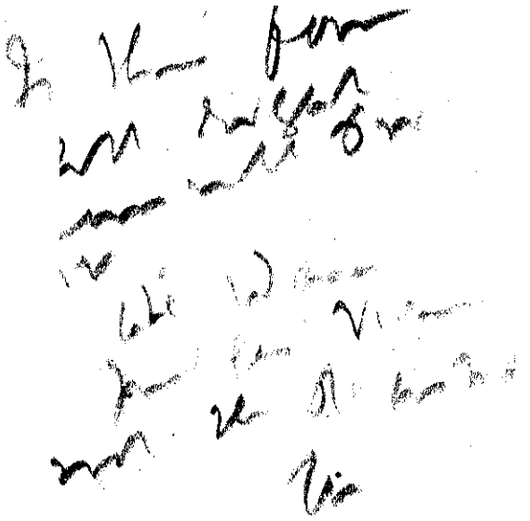
The Registrar,
High Court of Mysore.

Sir,

I am directed to forward herewith, a copy of Government Order No. R.6799-810/L.R.323-39-17. dated 22nd May 1940 publishing the report of the Special Officer on the working of the Debt Conciliation Act in the state and to request the favour of obtaining the views of the Judges of the High Court on the several points dealt with in the report and forwarding them to Government as early as possible.

I have the honour to be
Sir,
Your most obedient servant

for Chief Secretary to Government,
BM



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A previous off a gen consulting inspector is put up for a pt.

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Appendix F G—1]

SUBJECT .....

.....

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Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the 193 .

Date of issue 4-2-40

Signed by M S.K.V

List of enclosures .....

Copied by Dlu-V

Examined by .....

2 copies

Section L.R.

File No. 323-39

Serial No. 23

No. R 105/40 Report

To

The Registrar,
High Court of Mysore

Sir,

I am directed to forward herewith, a copy of Go. No. R. 6799-810/LR. 323-39-17 d. 22-5-40 publishing the report of the Special Officer on the working of the Debt Conciliation Act in the State and to request the favour of obtaining the ~~Opinion and Suggestions~~ views of the judges of the High Court on the several points dealt with in the report and ~~the same~~ them to Govt. as early as possible forwarding

I have etc

31/

for Secretary to Govt

By

M.S. RAMACHENDRA RAO B.A.B.L.
State Huzur Treasury Officer
(Retired)

1.2nd Main Road,
Sankarapur,
Basavangudi P.O.
12th July 1940.

17 JULY 1940
REVENUE DEPTT.

285

15

Dear Mr. Kesaviengar,

L.R. 323-39-17

Adverting to G.O. No. R. 6799-810/L.R. 323-39-17 dated 22nd May 1940, may I venture, as one of the public, to avail myself of the invitation kindly extended by the aforesaid G.O. to forward herewith for favour of your kind perusal, and submission to Government the enclosed Note containing my views and suggestions in regard to the points dealt with in the Special Officer, Mr. Ramakrishnaya's report on the working of the Debt Conciliation Act in the State?

Yours sincerely,

M.S. Ramachendra Rao

NOTE ON MR. RAMAKRISHNAIYA'S REPORT ON THE WORKING OF THE DEBT CONCILIATION ACT IN THE STATE.

By Mr. Mr. M.S. Ramachendra Rao B.A.B.L. Scenior Assistant Commissioner, Mysore Civil Service (Retired) President, The Kilara Rural Co-operative Society Unlimited; The Basavangudi Co-operative (Stores) Society Ltd; and Director The Mysore Central Co-operative Land Mortgage Bank Ltd, and erst-while Director of the Bangalore Central Co-operative Bank and the Mysore Provincial Co-operative Apex Bank.

The Special Officer has dealt with 33 points in his report. Of these the first ten points (Sl. Nos. 1-10 in the Summary of recommendations) as well as Nos. 15 & 29, may be grouped under the category "general suggestions" regarding remedial measures"; and the rest may be classed as "specific amendments" to the Act in order to improve its working.

2. I am in complete concord with the Special Officer in regard to the former group of recommendation as far as they go. But the question is, do they go far enough? Would any of the existing co-operative societies, or land mortgage banks, constituted as they are at present be able to give the contemplated relief? Judging from the facts and figures given by the Special Officer himself in his report as well as from my close personal experience of the working of the co-operative institutions with which I am connected mentioned above, it must be stated that both these questions have, perhaps, to be answered in the negative. Indeed, it would seem that nothing short of a complete re-orientation of policy in regard to the entire co-operative movement and the establishment of what Sir Frederick Nicholson called "Co-operative Village Banks" or what is known in modern phraseology as "multiple purposes co-operative societies," will meet the situation or produce any tangible results, not only as regards the conciliation of debts but also as regards every as pect of co-operation, "in its widest and truest sense as applied to every department of life and not in the narrow money-lending sense which is apt to be attached to it in this country."* It may be noted that this is not my own individual opinion but it is the unanimous recommendation made by all prominent co-operators of British India, as well as the

* Quoted from the speech delivered by H.H. the Maharaja in replying to the addresses presented to him by the Tumkur District Board and the Tumkur Co-operative Society on 12th December 1929.

Reserve Bank and no less by our own Beloved Sovereign and his illustrious brother, the late Yuvaraja, who as we all know, was a "co-operator" among "princes," and a prince" among "co-operators." A complete scheme on the lines of these recommendations has been drawn up under the caption, "Augmenting production by pooling resources in order to intensify the war effort and establish the co-operative Common wealth of Mysore;" and the same is under submission separately.

3. Meanwhile, it may not be in appropriate in this context also to indicate briefly the main features of the scheme. They are:-

(i) Carrying out an economic survey and economic planning throughout the State family by family, and recording the results thereof in certain prescribed registers styled economic charts thereby paving the way for the abolition of the decennial population census of 1941, as well as future censuses, and the institution of a permanent statistical organisation on an enlarged and comprehensive basis as in the United States of America.

(ii) Abolition of the distinction without difference between co-operative societies, and land mortgage banks, and co-ordinating the functions and activities of these bodies with those of village panchayets on the one hand, and debt conciliation boards on the other.

(iii) Establishing anew, in rural areas one or more co-operative societies of the multiple purposes type including the granting of both long term and short term loans, according to the circumstances of each case, as adjuncts to every village panchayet or group of village panchayets with a prescribed pecuniary jurisdiction, say, an income of Rs.1500 per annum and amalgamating all existing co-operative societies and land mortgage banks with such institutions; and in urban areas, as adjuncts to every office, or other institution employing, or having on its rolls more than ten persons, who derive their income from a common source, or have a common object and whose circumstances, character and capacity are well known to one another.

(iv) Requiring such panchayets cum co-operative societies or federal unions, as they may be called, to employ to begin with, one specially trained educated young man with the designation of "Economic Inspector" as the common secretary of all the unit panchayets and societies constituting the federation, and later on as other functions and activities specified below develope, a doctor and an engineer.

(v) Amalgamating the existing Central, Apex and Land Mortgage Banks not only in their own individual interests, but also the interests of the country at large, and thereby constituting a sort of Central, or Reserve, Co-operative Bank of Mysore to finance the entire co-operative movement in the State through the primary multiple purposes societies envisaged above.

(vi) Linking up the above scheme with the scheme of State Life Insurance, Public Branch.

(vii) Augmenting production, increasing the raiyat's income and improving his standard of life, by inaugurating a large programme of irrigation and other productive and protective works of public utility, as well as private improvement works under the auspices of the federal unions referred to above.

iii) Taxking advantage of the existing easy money conditions, and the splendid credit which Mysore enjoys in the money market, and floating a big State Loan to finance such of the above measures as cannot be worked out on a self-supporting basis, as it is claimed many of them can be.

4. If, and when this scheme, plan, or arrangement is adopted, then, so far as the subject matter of this note is concerned, every village panchayet, and every co-operative society will be a "debt conciliation board" for the area of its operations, and not only the Debt Conciliation Act, but the Agriculturists Relief Act, the Money Lenders Act and kindred legislation may become unnecessary. The enormous expenditure of time energy, and money, and withal disappointing results now involved in the working of these Acts not only to the Government but also to the people would be saved. Not only agriculturists, but all classes of debtors, as well as creditors, might be given effective relief under the scheme, since in the draft model bye-laws of the co-operative societies proposed to be established under its auspiees the expression "debt" has been defined as meaning and including" all liabilities owing to a creditor including Government a local body, a joint stock bank, a co-operative society, a private money lender; a superior holder of land, a plaintiff or decree holder, a landlord, tradesman, or other person, to whom any money is due, whether the said money is secured, or unsecured, is payable in cash, or kind, in pursuance of a contract decree or order of a civil or revenue court or otherwise, and including arrears of wages, rent, land revenue or any thing recoverable as an arrear of land revenue." Further it must be remembered that unlike the existing statutory debt conciliation boards whose chairman and members a all appointed by the Government, with no local influence, these "informal debt conciliation boards" would be composed of the accredited leaders of the people themselves, whose word would be law to both the contending parties. They would, therefore, automatically be able to reduce or scale down the debts to a figure which would bring them well within the repaying capacity of the borrowers. The would have the power not only to arbitrate and pass an award or decree, but also execute it.

5. In conclusion it may be stated that, lest the scheme should be condemned apriori as impracticable, many of these proposals have been tried and tested albeit on an experimental scale, in the Kila

Kilara Co-operative Society as well as the Pensioners' Fami[illegible]
Co-operative Society, (of both of which I am the President) and it is only to the extent to which they have successfully withstood or bid fair to withstand this practical test that they have been put forward here as fit for general adoption.

M.S. Rama Chandra Rao

B. R. PUTTANANJAPPA, M. A., LL. B.,
MEMBER,
MYSORE LEGISLATIVE COUNCIL.
DIRECTOR,
MYSORE CHEMICALS & FERTILISERS LTD.,
MYSORE MATCH COMPANY, LTD.

274

GEN. & REV. SECTT.
16 JULY 1940
BRANCH.

SHIMOGA.

Dated 14th July40

The Chief Secretary to the Government of Mysore,
Bangalore.

CHIEF SECRETARY.
15 JUL. 1940
GOVT. OF MYSORE.

L. R. 323-40-28

Re: Report of the Special Duty Officer on the working of the Debt Conciliation Scheme in the State.

I am generally in agreement in the main recommendations and the remarks made by Mr. B.K.Ramakrishnaiya, who has made an almost thorough study of the problem and has submitted a report which both Debtors and Creditors must accept as very fair. I would however like to place before Government a few points which I feel need special emphasis of regarding which I disagree from Mr. Ramakrishnaiya.

1. Para 8 (4) of the Report Re: Limitation.

Mr. Ramakrishnaiya considers that the period of 6 - years allowed by the Agriculturists Relief Act does not apply to proceedings before the conciliation Boards and that the Board should be guided by the ordinary rules of Limitation.

If this position is legally correct, then the Debt conciliation Act 1937 requires to be amended, making the period of limitation 6 years at least so far as Agriculturists Debtors as defined by the Agricultrists Relief Act are concerned. Otherwise, it will lead to extraordinary and some times absurd situations.

Suppose a Creditor has filed a suit against an Agriculturists Debtor after 3 but within 6 years from date of debt as provided by the Agriculturists Relief Act. If an application is filed before the Debtconciliation Board praying for remitting a stay of the suit before the civil court, the Board will have to reject the claim of that Creditor as

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SHIMOGA,

barred by limitation.

Paras 37 to 39 -

Exemption of Co-operative Societies.

I do not agree that any class of Co-operative Societies or Co-operative Banks should be placed in a privileged position as contemplated by the proviso to Section 14 of the Act. Mr. Ramakrishnaiya's suggestion is that deserving Co-operative Societies may be granted exemption. But the rate of ordinary and penal interest can be varied from time to time. Nothing prevents a co-operative Bank from lowering the rate of interest from just to gain the exemption and from raising it again afterwards.

The Act should apply to all Creditors in the State equally; it is not in the best interests of the state for any class of subjects to be made to feel that they alone are being penalised by Government unjustly. I am afraid that such feeling would result naturally from the differential treatment accorded to Co-operative Societies both under the Debt Conciliation Act and the Money Lenders Act.

Enforcement of the provision of the Agreement entered into:

I am afraid that Mr.Ramakrishnaiah has not gone into the question in detail. The act provides that the arrears of instalments under the agreement can be recovered as arrears of Land revenue. A creditor can resort to the civil court for recovering through execution proceedings if only the revenue authorities grant a certificate that the dues are not recoverable. Iam afraid that in practice it will will be found that the revenue authorities will be reluctant to grant a certificate even if they are incapable of collecting the dues for the benefit of the Creditors. Moreover it is very likely that they will be very negli-

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SHIMOGA,

gent in proceeding against the debtor. As the act stands at present, the creditors will be helpless in such a situation. My suggestion is that if the Revenue authorities fail to recover the arrears within six months from date of application, the creditor must be free to approach the civil court, as a matter of right and not depending on whether the Deputy Commissioner has given as certificate or not.

Para 22.

I am in full aggreement with the suggestion that, the conciliation Boards should be presided over by Judicial - Officers. In the connection I would invite the attention of Government to the cut-motion moved by me to the same effect at the Budget Session of the Legislative Council, 1938.

I would request Government to accept the recommendations and suggestions made by the Special Officer, with the few necessary modifications pointed out by me.

It will be a great boon to both debtors and creditors in the State if the Debt conciliation Act is amended as suggested above, and Debt conciliation Boards and Land - mortgage Banks are established in all the Taluks of the State. One whole-time Judicial Officer may be made the president of all the Taluks conciliation Boards in a Revenue Subdivision. If the same offiser is also made the Chairman of the Land mortgage Banks in those Taluks, the work of coordination will be easy.

I beg to remain
Sir,
Yours Faithfully.

B. R. Puttanaujappa.

K. VENKATARAMIAH,
Director, Robertsonpet Co-operative Society Ltd., Member of the Working Committee & Governing Body, Mysore Co-operative Institute, Co-operative Propaganda Officer & Arbitrator.

GEN. & REV. SECTT. 17 JULY 1940 BRANCH.

Ry. Station :—
"OORGAUM"
(M. & S. M. Ry.)

No. 5, CROSS ROAD,
ROBERTSONPET, P. O.,
SOUTH INDIA.

12th July, 1940

CHIEF SECRETARY, Rev 16 JUL 1940 GOVT OF MYSORE.

The Chief Secretary to the
Government of Mysore,

BANGALORE.

M.R. 323-39-29

Sir,

RE: WORKING OF THE DEBT CONCILIATION ACT IN THE STATE.

I have the honour to give my suggestions in connection with the above as per your publication in the Mysore Gazette dated 6th June 1940 as follows:-

1. I am of opinion that since the public are not well aware of the benefits they are going to get by the Conciliation Scheme I suggest that immense propaganda has to be carried out throughout the State.
2. Steps to be taken to see and put a stop to the documents for much larger sums than what is really advanced and sale deeds taken where the transaction really intended is only a mortgage.
3. The limitation must be increased same as Co-operative Institutions.
4. The time for registering an agreement must not be increased for more than 30 days.
5. The appearance of lawyers before the Board should be restricted.
6. The scheme should be introduced throughout the State.

7. A. provision must be made to start land Mortgage Societies in the places where there are debt conciliation boards and to see that they are helpful to the debtors.

8. The Board must be increased at least to five and the members must be from the public such as retired officials and agriculturists. The Chairman of the Board must be a retired judicial officer.

I concur with the special officer's recommendation regarding the other points.

I request you to kindly take these suggestions while passing the orders.

I have the honour to be,
Sir,
Your most obedient servant,

K. Venkataramiah

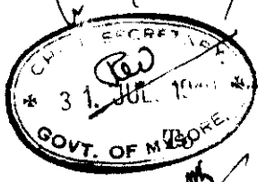
OFFICE OF THE DEPUTY COMMISSIONER,
CHITALDRUG DISTRICT.
(camp) Davangere,
Dated Chitaldrug 30th July 1940..

In reply, please refer
No. A.3.C.4391/39-40
Encls.

524

MBN





FROM R.P. Mallapoa, Esq. B.A., LL.B.,
~~MOHAMED ISMAIL SHERIFF, Esq., B.A.,~~
Deputy Commissioner,
Chitaldrug District.

L.R. 323-40-30

Rajasevaprasakta
B.T. Kesaviengar, Esq., B.A.,
Chief Secretary to the Government of Mysore,
Bangalore.

SIR,

With reference to your letter No.R. 9605 dated 27th July 1940 inviting attention to Government order No. 6799-810- L.R.323-39-17 dated 22nd May 1940 and calling for my views on the several points dealt with in the Special Officer's Report on the working of the Debt Conciliation Boards in the State, I have the honour to state that I have carefully gone through the report and that I generally agree with the suggestions and recommendations made by the Special Officer. It is very desirable that there should be a Land Mortgage Bank in places where the Debt Conciliation Board is functioning and that the rules governing the grant of loans by the Land Mortgage Banks are relaxed as recommended by the Special Officer in paragraphs 17 and 18 of the Report so that creditors may be prevailed upon to make some sacrifices if they are sure of prompt payment in cash. The experiment of appointing experienced judicial officers as chairmen may be tried in some Boards with a view to see if better results could be achieved. I think the term "Agriculturist" should be well defined so as to exclude non-agriculturists from the benefits of the Act. The recommendation of the Special Officer in paragraphs 29 to 36, 39 and 41 to 48 may well be adopted. As regards certain powers to be exercised by the Board under order 16 of Civil Procedure Code 1911

recommended by the Special Officer in connection with coercive processes in paragraph 3(2) of the report, it appears to me that prior sanction of Deputy Commissioner is unnecessary. The Board can be empowered to exercise these powers in its discretion, the chairman is generally an officer having judicial experience..

I have the honour to be,

S I R,

Your most obedient servant.

Deputy Commissioner,

Chitaldrug District.

No. C.310/40-41
Enc: Circular

OFFICE OF THE REVENUE COMMISSIONER IN MYSORE.

Bangalore, dated 30th July *194* 0

From

Rukn-ul-Mulk
S. ABDUL WAJID, Esq., B.A.,
Revenue Commissioner in Mysore,
Bangalore.

SECT. & REV. SECTT. 1 AUG 1940

To

Rajasevaprasakta
B.T.Kesavaiengar, Esq.B.A.,
Chief Secretary to Government of His Highness
the Maharaja of Mysore,
.....Department, Bangalore.

1. AUG. 1940 GOVT. OF MYSORE.

Sir,

L.R.323-39

Subject:—

I have the honour to forward herewith, a copy of letter No.J4.7/40-41 dated 13th July 1940, from the Deputy Commissioner, Kadur District, forwarding a copy of the suggestions received from the public in **response** to Government order No.T.6799-810/ L.R.323-39-17 dated 22nd May 1940, re. the working of the **Debt** Conciliation Act, in the State together with the views of the Deputy Commissioner in the matter.

I have the honour to be,
Sir,
Your most obedient servant,

Abdul Wajid.
Revenue Commissioner.

Mahomed Ismail Sheriff, Esquire., B.A.,

Deputy Commissioner,
Kadur District.

To

Rookn-ul-Mulk
S. Abdul Majid, Esquire., B A ,

Revenue Commissioner in Mysore.,
BANGALORE.

Sir,

I have the honour to forward herewith a copy of suggestion received from the Public in response to Government Order No.R.6799-810 L.R.323-39-17 dated, Bangalore, 22nd May 1940 regarding the working of the Debt Conciliation Act in the State. Among the suggestions made therein, the most important are given below together with my views for favour of your kind information.

II. Section 14 of the Act is proposed to be so altered in a way to enable the Board's decision to be enforced against all creditors, secured or unsecured, whether they agree or not to the scheme of conciliation proposed by the Board. The underlying principle of the debt Conciliation Scheme is that the conciliation should be on a voluntary basis and that the Board being an influencial Body might use its influence in arriving at a settlement without of course using compulsion for that purpose. Conciliation of debts on voluntary basis is fundamentally opposed to conciliation by compulsion and it may not be very desirable to substitute element of compulsion. Certain amount of compulsion is however necessary to deal with recalcitrant creditors and the Act may perhaps be amended in a manner as not to come in conflict with the underlying principle of voluntary conciliation. This aspect of the question has been fully dealt with by the Special Officer. I am of opinion that unless there is provision for enforcement of the decision of the Board just as if it were an award irrespective of what the parties feel about it, ~~inspite of the parties~~ will be a case of love's labour lost and there would not be any finality to the proceedings, for it can always be set at ~~right~~ naught at will. Hence I consider that the decision of the Board should be given the status of an award passed by a Board of Arbitrators.

decision being filed in Civil Courts, it should be effected just as if it were an award.

III. The Public have suggested that the rate of interest brought down to 4% in view of the continued slump in Coffee The rate proposed appears to be rather low and it is feare credit may not be forthcoming readily as the securities of by the debtors are not usually stable and are subject to f market conditions. There is no stipulation with regard to of interest in the Debt Conciliation Act. It is a matter o knowledge that even Banks and Co-operative Societies charg as interest and some-times compound interest is also levie unsecured debts or debts secured by lands. At the same ti rate of interest depends mostly on the nature of security an of the borrower so much so that it may not be practicable a hard and fast rule regarding rate of interests to be enf All the same coffee loans being generally of large amounts for special consideration. Even if the credit gets more dif it may do a certain amount of good. In this connection, it stated that the Money Lenders' Act which has recently been has prescribed [illegible] in maximum rates o interest which have been considered to be fair and reasonable regard to the above, it may be accepted that a rate of 6% i of debts under ten thousand 5% in case of debts above ten t forty thousand and 4% in case of debts above forty thousand be adopted. This will be both fair and equitable.

IV. The Public has stress the need for the establishmer Mortgage Bank in places where there are Debt Conciliation There are at present some places, for example, Chickmagal both a Land Mortgage Bank and a Debt Conciliation Board A Unfortunately their functions are not co-related. The ru correlation of functions of the Land Mortgage Bank and De ciliation Board have to be framed and their powers with r to grant of loans enlarged so as to meet the needs of a l number of indebted persons. It is no doubt true that the L Mortgage Banks cannot alone solve the problem of Agricult indebtedness with their limited resources but experience shown that creditors are willing to make greater concessi

and tendered towards discharge of debts that have been [illegible]
In this view, the Land Mortgage Banks are a necessity and may help
good many debtors who honestly resort to Debt Conciliation Board f
settlement of their debts. For the full effect, it will be necessar
to give a reference to the Land Mortgage Bank also or the Board and
the Bank should be authorised to advance loans for satisfying itsel
of the sufficiency of the security of the amount fixed by the Conc
iliation Board. Special powers to advance large sums spread over lo
eriods may be necessary for Banks working in the Coffee area.

The Public desire that the Board should be given the powers un
he Act to investigate debts which have been finally settled and
ecreed by the Civil Courts. This would amount to an unnecessary dupl
tion of work as the Civil Courts will have enquired, on examinatio
parties and their evidence, the debts due in each case and given
finding. With regard to consent decrees, the point does not arise
all since the defendant-debtor will have consented and has no

Scheme considered fair by the Board. Where the creditor is determined and refuses to agree t the offer considered fair by the Board, the only course left for the Board would be to grant a certificate. But this does not give the debtor the necessary relief which in fairness may be given to him. The creditore however may be expected to generally agree to a scheme of conciliation of debts which is considered satisfactory unless they are certain of getting more by persisting for their pound of flesh. As stated before, where ready money is given to a creditor he may be willing to make more concessions than he would ordinarily agree to. The Land Mortgage Banks can did the debtors and the Boards by thus providing necessary money and thus afford real relief to the debtor. By the establishment of Land Mortgage Banks and other remedial measures contained in the Special Officer's report and giving the decisions of the Board the status of an award by Arbitrators the Debt Conciliation Boards can be made to give sufficient relief to the Agriculturist Debtors and fulfil the object with which they were established by the Government.

I have the honour to be
Sir,
Your most obedient servant,

For Deputy Commissioner,
Kadur District.

Suggestions of the Public referring to the report of the Special Officer on the subject of the Debt Conciliation Act 1937 for Governments' kind consideration, as per Order No.R.6799-810 L. 822-39-17 dated Bangalore, the 22nd May 1940.

1) Section. 14 of the Act is to be altered so that the settlement of the Board should be binding on all the creditors, secured a unsecured regardless to the fact of the consent of all or over 50% money creditors.

This alteration is so necessary when dealing with cases relating to the Coffee estates, because unlike Agriculturists the coffe planters has large dealings in thousands and lakhs of monies and th large creditors are prepared to the extremity to see in which court he can have the maximum benefit. In the case of the ordinary agriculturists the transactions are small and the small creditor is genera not prepared for the cost and delay and trouble of Civil Court litigations and hence is inclined to yield to the wishes of the Board.

2. The following reliefs should be further granted:-

a) The rate of interest should be brought down to 4% simple. This is more or less the reasonable income which come from the coffee estates at present coffee prices. If the interest is excessive the debtor would not be in a position to reduce the principal debt. The rate is reasonable being in the largest majority a payment on super profits made by creditors after collecting large interests and penalty interests for many past years.

b) The principal debt should be made payable in reasonable small instalments extending over a large number of years as contemplated in Land Mortgage Banks.

The suggestion of setting up Land Mortgage Banks is a correct remedy and highly appreciable, but to set up such Banks to remedy the existing and pressing evil is not practical in the presence the present creditors who look forward to the assets of the debtor to discharge their debts should be considered as substitutes of the Land Mortgage Banks, and payments to them made payable in long annual instalments of 20 or 25 years. Coffee Estates securities are good so long as they are satisfactorily maintained, a coffee state is often able to exist giving good bearing for generations 5 to 100 years and therefore no severe risk is run by the creditor.

Considering that the settlement of the Board has serious consequences to the Debtor in case of his default the balance of the concessions may be kept on the side of the debtor thereby giving him a chance to exist whilst all along he liquidates his debt systematically.

c) If for good and honest reasons relating to poor harvests and poor prices the debtor was unable to pay the instalments decided by the Board, a further concession of time may be granted to pay up the debts, always assuming that annual interest at 4% is paid.

This requires no special explanation; it speaks for itself.

This relief is also humbly solicited.

As facts have it, owing to continued depressions and low coffee prises the coffee planters' position was becoming weak the creditors were constantly bringing pressure on debtors and also giving false promises and by such means have secured (1) consent decrees. (2) Award Decrees (3) Mortgages with possession (4 Morgages simple reckoning at high rate of interest, penalty rates of interest and other profits ordinarily not justifiable. In the event of such instances the Board may be empowered to review such decrees and documents in the spirit of equity and justice as civil courts would have done. The reason for urging this before the Board is because it would facilitate proceedings before the Board and also save the debtor parties from heavy cost and trouble connected to Civil Court litigations.

Copy

For Deputy commissioner

No.J4-15/40-41.
Enc. copies.

Office of the Deputy Commissioner,
Kadur District,
Chickmagalur, dated, the 30th July 1940

From

Mahomed Ismail Sheriff, Esquire., B.A.,
Deputy Commissioner,
Kadur District.

To

Rajasevaprasakta
B.T.Kesaviengar, Esquire., B.A.,
Chief Secretary to Government,
BANGALORE.

Sir,

With reference to your letter No.R.960-71 dated 27th July 1940, calling for my views on the points dealt with in the Special Officer's Report on the working of the Debt Conciliation Boards in the State, I have the honour to state that a reply was sent to the Revenue Commissioner with this Office No.J4-7/40-41 dated 10th July 1940, in duplicate, for favour of kind perusal and transmission to your Office. - Another copy is now enclosed herewith for favour of your kind information. This report embodies my views on the various points.

I have the honour to be
Sir,
Your most obedient servant,

Deputy Commissioner,
Kadur District.

Letter No.J4-7/40-41 dated 13th July 1940 from the Deputy Commissioner, Kadur District, Chickmagalur, to the Revenue Commissi -er in Mysore., Bangalore.

I have the honour to forward herewith a copy of suggestions received from the Public in response to Government Order No.R. 6799-810 L.A.323-39-17 dated, Bangalore, 22nd May 1940 regarding the working of the Debt Conciliation Act in the State. Among the suggestions made therein, the most important are given below together with my views for favour of your kind information.

II. Section 14 of the Act is proposed to be so altered in a way to enable the Board's decision to be enforced against all creditors secured or unsecured, whether they agree or not to the scheme of conciliation proposed by the Board. The underlying principle of the debt Conciliation Scheme is that the conciliation should be on a voluntary basis and that the Board being an influencial body might use its influence in arriving at a settlement without of course using compulsion for that purpose. Conciliation of debts on voluntary basis is fundamentally opposed to conciliation by compulsion and it may not be very desirable to substitute element of compulsion. Certain amount of compulsion is however necessary to deal with recalcitrant creditor and the Act may perhaps be amended in a manner as not to come in conflict with the underlying principle of voluntary conciliation. This aspect of the question has been fully dealt with by the Special Officer. I am of opinion that unless there is provision for enforcement of the decision of the Board just as if it were an award it will all be a case of irrespective of what the parties feel about it, love's labour lost and there wiould not be any finality to the proceedings, for it can always be set at nought at will. Hence I consider that the decision of the Board should be given the status of an award passed by a Board of Arbitrators and the decision being filed in Civil Court, it should be effected by them, just as if it were an award.

III. The Public have suggested that the rate of interest may be brought down to 4% in view of the continued slump in Coffee Prices. The rate proposed appears to be rather low and it is feared that credit may not be forthcoming readily as the securities offered

offered by the debtors are not usually stable and are subject to fluctuating market conditions. There is no stipulation with regard to the rate of interest in the Debt Conciliation Act. It is a matter of common knowledge that even Banks and Co-operative Societies charg 9% as interest and some-times compound interest is also levied on unsecured debts or debts secured by lands. At the same time, the rate of interest depends mostly on the nature of security and credit of the borrower so much so that it may not be practicable to make a hard and fast rule regarding rate of interests to be enforced. All the same, coffee loans being generally of large amounts call for special consideration. Even if the credit gets more difficult it may do a certain amount of good. In this connection, it may be stated that the Money Lenders' Act which has recently been enacted has prescribed in Section 14 and 15 certain maximum rates of interest which have been considered to be fair and reasonable. Having regard to the above, it may be accepted that a rate of 6% in case of debts under ten thousand, 5% in case of debts above ten but under forty thousand and 4% in case of debts above forty thousand may be adopted. This will be both fair and equitable.

V. The Public has stressed the need for the establishment of Land Mortgage Bank in places where there are Debt Conciliation Boards. There are at present some places, for example, Chickmagalur where both a Land Mortgage Bank and a Debt Conciliation Board exist. Unfortunately their functions are not co-related. The rules for correlation of functions of the Land Mortgage Bank and Debt Conciliation Board have to be framed and their powers with regard to grant of loans enlarged so as to meet the needs of a larger number of indebted persons. It is no doubt true that the Land Mortgage Banks cannot alone solve the problem of Agricultural indebtedness with their limited resources. But experience has shown that creditors are willing to make greater concessions and reductions in debts where ready money is found and tendered towards discharge of debts that have been pending for long. In this view, the Land Mortgage Banks are a necessity and may help a good many debtors who honestly resort to Debt Conciliation Board for settlement of their debts. For the full effect, it will be necessary to give a reference

to the Land Mortgage Bank also or the Board and the Bank should be authorised to advance loans for satisfying itself of the sufficiency of the security of the amount fixed by the Conciliation Board. Special powers to advance large sums spread over long periods may be necessary for Banks working in the Coffee Area.

V. The Public desire that the Board should be given the powers under the Act to investigate debts which have been finally settled and decreed by the Civil Courts. This would amount to an unnecessary duplication of work as the Civil Courts will have enquired on examination of parties and their evidence, the debts due in each case and given a finding. With regard to consent decrees, the point does not arise at all since the defendant-debtor will have consented and has no dispute regarding the claim made by the Plaintiff-Creditor. This seemingly difficult position in the case of decree debts can be overcome if only the creditor is willing to be considerate and offers to agree to a scheme of settlement which in effect modifies the terms of decree obtained in a Civil Court. The existing provisions of the Act do not prevent the Boards to give effect to such an agreement if only the parties thereto agree. The unwillingness of the creditor and particularly those of secured creditors is the main factor that the Board has to contend with and overcome by the exercise of its influence whenever possible. The position of a secured creditor remains the same as long as the proviso to Section 14 of the Act remains unaltered.

VI. General:- The suggestions made by the Public are mostly from the Coffee Planters of this District. In their case, the debts are generally large and are often in proportion to the extent of the estates. They are also very old. Most of these estates are generally mortgaged to creditors and the debts are therefore mostly secured. According to the existing provisions of the Act, the Board cannot give any adequate relief to the debtor Coffee Planter unless his secured creditors offer to agree to a scheme considered fair by the Scheme considered fair by the Board-where the creditor is determined and refuses to agree to the

agree to the offer considered fair by the Board, the only course left for the Board would be to grant a certificate. But this does not give the debtor the necessary relief whi in fairness may be given to him. The creditors however ma be expected to generally agree to a scheme of conciliation of debts which is considered satisfactory unless they are certain of getting more by persisting for their pound of flesh. As stated before, where ready money is given to a creditor he may be willing to make more concessions than he would ordinarily agree to. The Land Mortgage Banks can did the debtors and the Boards by thus providing necessary money and thus afford real relief to the debtor. By the establishment of Land Mortgage Banks and other remedial measures contained in the Special Officer's report and givi the decisions of the Board the status of an award by Arbitrators the Debt Conciliation Boards can be made to give suf cient relief to the Agriculturist Debtors and fulfil the object with which they were established by the Government-

Suggestions of the Public referring to the report of the Special Officer on the subject of the Debt Conciliation Act 1937 for Government's kind consideration, as per order No.R.6799-810 L.A. 322-39-17 dated Bangalore, 22nd May 1940.

---

1. Section 14 of the Act is to be altered so that the settlement of the Board should be binding on all the creditors, secured and unsecured regardless to the fact of the consent of all or over 50% money creditors.

This alteration is so necessary when dealing with cases relating to the Coffee estates, because unlike Agriculturists, the Coffee Planters has large dealings in thousands and lakhs of monies and the large creditors are prepared to the extremity to see in which court he can have the maximum benefit. In the case of the ordinary agriculturists the transactions are small and the small creditor is generally not prepared for the cost and delay and trouble of Civil Court litigations and hence is inclined to yield to the wishes of the Board.

2. The following reliefs should be further granted:-

a) The rate of interest should be brought down to 4% simple. This is more or less the reasonable income which come from the coffee estates at present coffee prices. If the interest is excessive, the debtor would not be in a position to reduce the principal debt. The rate is reasonable being in the largest majority a payment on super profits made by creditors after collecting large interests and penalty interests for many past years.

b) The principal debt should be made payable in reasonable small instalments extending over a large number of years as contemplated in Land Mortgage Banks.

The suggestion of setting up Land Mortgage Banks is a correct remedy and highly appreciable, but to set up such Banks to remedy the existing and pressing evil is not practicable in the present; hence the present creditors who look forward to the assets of the debtor to discharge their debts should be considered as substitutes of the Land Mortgage Banks, and payments to them made payable in

in long annual instalments of 20 or 25 years. Coffee estate securities are good so long as they are satisfactorily maintained, a coffee estate is often able to exist giving good bea ing for generations 75 to 100 years and therefore no severe risk is run by the creditor. Considering that the settlement of the Board has serious consequences to the debtor ~~it~~ in case of his default the balance of the concessions may be kept on th side of the debtor thereby giving him a chance to exist whilst all along he liquidates his debt systematically.

c) If for good and honest reasons relating to poor harvests and poor prices the debtor was unable to pay the instalments decided by the Board, a further concession of time may be gran to pay up the debts, always assuming that annual interest at 4% is paid.

This requires no special explanation - it speaks fo itself-

This relief is also humbly solicited.

As facts have it, owing to continued depressions and lo coffee prices the Coffee Planters' position was becoming weak the creditors were constantly bringing pressure on debtors and also giving false promises and by such means have secured 1) Consent Decrees. 2) Award Decrees. 3) Mortgages with possessi 4) Mortgages simple reckoning at high rate of interest, penalt rates of interest and other profits ordinarily not justifiable. In the event of such instances the Board may be empowered to review such decrees and documents in the spirit of equity and justice as civil courts would have done. The reason for ~~urging~~ is because it would facilitate proceedings before the Board urging this before the Board and also save the debtor parties from heavy cost and trouble connected to Civil Court litigations.

Encs. A.2.C. 4541/39-40.

OFFICE OF THE DEPUTY COMMISSIONER,
SHIMOGA DISTRICT.

Dated Shimoga, the 23rd August *194* 0

MSBN

Q 831

From

M. SESHADRI, Esq., M.A.,
Deputy Commissioner, Shimoga District.

To

Rajasevaprasakta
B.T. Kesaviengar, Esq., B.A.,
Chief *Secretary to the Government of His Highness the Maharaja of Mysore,*
Department, BANGALORE.

L.R. 323-39-32

CHIEF SECRETARY * 27 AUG. 1940 * GOVT. OF MYSORE.

GEN. & REV. BRANCH. 27 AUG. 1940 HOME DEPARTMENT.

Subject:— Debt Conciliation Board - Report of the Special Duty Officer.

******

Sir,

With reference to your letter No. R. 960-71 dated 27th July 1940 calling for my views on the report of the Special Duty Officer on the working of the Debt Conciliation Board published under Government Order No. 6799-310/L.R. 323-39-17 dated 22-5-1940, I have the honour to state as follows:-

1. Working of the Debt Conciliation Board: Paras 5 & 6 of the Report:- The result achieved by the Scheme during the past 2 years is no doubt poor when compared with the expenditure, time and labour involved. This is due to the several factors which are in the way of working out the Scheme as explained in paras 5 and 6 of the Report. The most important of them are, the absence of any provision to enforce prompt settlement and payment of the conciliated debt as also the absence of provision to compel the creditors to accept the offers made by the debtors which are considered reasonable and fair by the Board. Necessary provisions may be made in the Act to over-come these difficulties.

2. Process Fees on notices etc., issued by the Board Para 8 (1) of the Report:- The Scheme is still in the inception stage. I am of opinion that until the scheme becomes popular, the processes to be issued by the Board may be exempted from payment of any fees as a special case, the Postal Registration charges being however recovered from the debtors or creditors concerned at whose instance

instance the notices etc., will be sent by Registered Post.

3. Stamp Duty on the agreements to be recovered under Sec 14 of the Debt Conciliation Board Act: Para 8 (13) of the Report:- Since the documentx reduced to writing under secti 14 of the Act is only an agreement, the levy of a stamp duty of annas eight only under article 4 (c) of xx Schedule I - A of the Stamp Act appears reasonable as suggested by the Special Duty Officer.

The Sub Division Officer, Sagar, who is the Chairman of the Board has brought to notice that the levy of heavy reg tration fees on the agreements sent for registration has caus hard-ships to the parties and also has hampered the working o the Scheme as the creditors who have to bear the registration charges under rule 21 (2) of the rules under the Act, will be generally unwilling to pay the same and the debtors in whose interest the agreements have been arrived at are poor and una to pay the same.

I would therefore recommend that the agreements to be sent for registration under section 14 of the Act may be exem from the levy of Registration Fees just as in the case of cop of the sale certificates sent by the Revenue and Civil Courts which are filed in the Sub Registrar's Office without levy of any fees.

4. Registration of agreements in the Sub Registry Offices: Para 8 (8) of the Report:- I agree with the Special Duty Officer that the Sub Registrars have to register the agreement sent by the Board just as they do in the case of Court decree presented for registration, without expecting the appearance of the parties concerned by virtue of the provisionx of Sectic 14 (3) of the Act read with section 88 of the Registration Act I have already observed this in my notes of inspection of the Sagar Debt Conciliation Board last year and issued necessary

instructions to the Chairman in the matter.

Suitable provision may however be made on the point in the rules as suggested by the Special Duty Officer.

It appears to me that it is undesirable to appoint Judicial Officers to preside over these Boards. The success of these Boards depends on the influence of the Chairman and unless the Chairman is an official who has control over the people he will not be able to do much. I think that some time at least that the local Revenue Officers must continue to preside over the Board.

The other suggestions of the Special Duty Officer may be adopted.

n all future correspondence please quote this
No. A.I.C.284/40-41.
Encls. One copy of report

OFFICE OF THE
KOLAR DISTRICT.

Dated Kolar. the 29th August *1940.*

R 898

FROM

G. Sundara Rao, Esq., B.A.,
Deputy Commissioner,
~~District Magistrate,~~
Kolar District.

L.R. 323-39-33

To

Rajasevaprasakta B.T. Kesavaiengar, Esq., B.A.,
Chief SECRETARY TO GOVERNMENT OF MYSORE,
~~Department~~
Bangalore.

CHIEF SECRETARY * 30 AUG. 1940 * GOVT. OF MYSORE.

Subject:- Re: the report of the Special Officer on the working of the Debt Conciliation Boards in the State.

- - - -

Adverting to Government Order No: R.6799-810/L.R.323-39-17 dated 22nd May 1940 publishing the above report and calling for views on the points dealt with in the Special Officer's report, I have the honour to forward, herewith, a copy of the report of the Chairman, Debt Conciliation Board, Chikballapur, furnishing his views in the matter, for favour of reference, and to state that on a study of the report of the Special Officer, I find that the defects observed in the working of the scheme and proposed measures to improve the working of the Boards have been fully discussed in all its aspects. I am, therefore, of opinion that the several suggestions made by the Special Officer may be adopted.

I have the honour to be,
S i r,
Your most obedient servant,

G Sundara Rao

Deputy Commissioner,
Kolar District.

Views of the Debt Conciliation Board Chikballapur on the report of the Special Duty Officer re: the Debt Conciliation Act.

Para 8 referred to in the Special Report re: doubts felt by the Board.

(1) Proposals to levy postal and process fee under Section 8(2) Proceesses Fee under Section 10(2) to be recovered from the applicants, may be provided for;

(2) Three provisions referred to in (a); (b) and (c) as noted below may be added to ensure prompt disposal of the cases;

(a) to issue warrant of arrest (bailable);
(b) proclamation and attachment of property;
(c) the imposition of fines, (Compare Rule 49 of the Bengal Agricultural Debtors Rules).

(4) Limitation to be determined under the Debt Conciliation Act cases to be specially noted.

(5) Even one or more secured creditors to whom more than 50 per cent of the debt is due, are not agreeable, there is no reason, why, if the remaining parties agree, a settlement should not be effected;

(6) In case of a revived application under Section 24 the reckoning of the period of one year of limitation must reasonably be calculated from the date of the revision application;

Para (11) Maximum amount of interest allowed under Section 16 of Mysore Debt Conciliation Act. The question often arises as to whether very heavy interest already paid should not be taken into consideration. If by the time of settlement interest equal to twice the principal had been paid why should not reasonable consideration be paid to such cases, by way of:-

(a) not allowing any further interest;
(b) reducing the principal proportionately on the merits of each case. To interpret it as authorising to waive by way of interest at the time of settlement an amount equal to principal, is not an adequate relief to the poor debtors. Except in cases in which a decree has been obtained before Civil Courts, I consider even the interest paid from and to the date of settlement may be taken into consideration.

Para (13) Stamp duty of annas ten only seems sufficient for the agreement as this is after registration will have the force of a decree. But one point for consideration is whether registration fee will be calculated on the value of the stamp paper or the amount involved. These points to be clarified (Rule 21 under the Mysore Debt Conciliation Act).

Para (22) May be tried.

Para (29) Section 3 to be amended by adding a saving clause enabling the board to function notwithstanding any vacancy due to death, resignation or removal etc.

Para (31) A provision similar to Section 13(3) of the Bengal Agricultural Act may be introduced here. "If any debtor fails to comply with a Notice under Section 8(2) or to furnish particulars under Section 8(3) and the board consequently dismisses the application, Board may allow reasonable costs to the Creditor applicant which can be recovered as arrears of Land Revenue.

Para 32. The application for stay proceedings (should be granted) only in the 1st proceedings of the 1st application. But if for default of the debtor an application is rejected and a second one is brought up, such stay of proceedings need not be made, as otherwise undue advantage will be taken by unscrupulous debtors. (Vide A.I.R. 1940 Madras).

Para 33- As in Punjab, if once an application is made by a debtor and disposed of, a second application need not be entertained within two years, when it is found that the dismiss was for wanton default of the debtor. This would encourag creditors also to come forward. Section 7 and 24 of the Mysore Debt Conciliation to be amended or a proviso added.

Para 35. Section 14 of our Act. A certain amount of compulsion i.e when the creditors to whom more than 50 per cent of the debts is due, agree to the settlement, the other creditors must be compelled to accept the offer of the debtor. When bogus debts are brought to notice and proved, the application will have to be rejected;

Para 34.- Section 9 of our Act to be amended by the addition of a clause making the application liable to be dismissed if t board is satisfied that an alienation of part of the prop is wantonly made within 180 days prior to the date of the application with a view to defraud the creditors.

Para 44.- Lawyers may be allowed to appear only in deserving cases, by the board, and not as a matter of course as is now don

Para 45.- Section 26. A provision to stop proceedings before the Registrar of Co-operative Societies and Revenue Courts in the Execution stage, should be added;

Para 47.- When the application is made by only one of several joint debtors, the board may be empowered to conciliate joint debts, provided the creditor agrees to relinquish all fur claims;

Para 48.- In cases where the value of property is disproportionately small as compared with the debt, and consequently the app cation is rejected, being impracticable, the Board may be authorised to refer such cases to the competent courts;

Sd/- S.Ghouse Mohidin,
Chairman,
Debt Conciliation Board, Chikballapur.

+ + + + + + + + +

" C O P Y "

Deputy Commissioner,
Kolar District.

R 913

No. L.Dis.A.7.C..55/40-41

Enc.

Office of the Deputy Commissioner
Tumkur District.
Dated, Tumkur, the 30th August 19

From

K. Guru Dutt, Esq:, B.A.,
Deputy Commissioner,
Tumkur District. TUMKUR.

To

Rajasevaprasakta
B.T. Kesavaiengar, Esq:, B.A.,
Chief Secretary to the Govt: of Mysore,
BANGALORE.

Sir,

With reference to Government Order No.R.6799-810/ L.R. 323-39-17 dated 22nd May 1940 calling for my views on the points dealt with in the report of Mr.B.K. Ramakrishnaiya on the working of the Debt Conciliation Act,1937, I have the honor to state that the several recommendations made (vide page 18 of the printed Report) are suitable and if accepted, will conduce to the better working of the Boards.

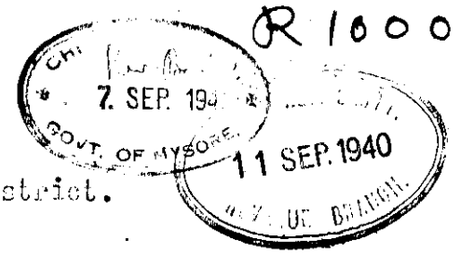
I have the honor to be,
sir,
Your most obedient servant,

Deputy Commissione-r,
umkur District.

Office of the Deputy Commissioner,
Hassan District,
Dated Hassan, the 1st September 1940.

No:L.Dis.C&-C.74/40.

R 1000



From

T. Ramaiya, Esq., B.A., (Hons)

Deputy Commissioner, Hassan District.

To

Rajasevaprasakta
B.T.Kesavaiengar, Esq., B.A.,
Chief Secretary to Government,
B a n g a l o r e.

L.R. 323-39-35

Sir,

With reference to C.O. No:R.6799-810/L.R.323-39-17 dated 22nd May calling for my views on the report of the Special Officer, re: the worki of the Debt Conciliation Act 1937 and other allied matters, I have the to state that I agree with the recommendation of the Special Officer ex in the following respects.

1. Empowering the Debt Conciliation Board to issue notices, warrants arrest and such other coercive measures for securing the presenc witness and parties does not appear to be desirable, as such a pr dure is opposed to the spirit of the scheme which has voluntary conciliation as the foundamental laws.

2. The period of limitation for registration of agreements in the ca of conciliation may be enhanced and fixed at 60 days, so as to ha margin for unavoidable caused of delay.

3. The limitation of the stamp duty on agreements arrived, at twelv annas without reference to amounts agreed to is not desirable, as a procedure would prejudice the interests of Government Revenue; t stamp duty leviable on such agreements should depend on the sum pa ment of which is agreed therein.

The proposal that Land Mortgage Banks should issue loans up to 70% of the estimated value of secured property is rather too risky. The limit may be raised to 60%.

5. The proposal to allow the privilege of appealing against the decision of the Board, does not seem to be desirable, as the

as the parties who seek redress from the Debt Conciliation Board should essentially agree in the first instance to abide themselves by the decision of the Board.

I have the honor to be,
Sir,
Your most obedient servant,

Deputy Commissioner,
Hassan District.

No. 3086 C. S.

GOVERNMENT OF MYSORE. R 1234

DEPARTMENT OF CO-OPERATION

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE.

Telegraphic Address "CO-OPERT" Bangalore.

Dated Bangalore, 18th September 1940

20 SEP. 1940

FROM

M. ABDUL HUKH, ESQ., B.A.,
Registrar of Co-operative Societies in Mysore,
BANGALORE.

CHIEF SECRETARY Rev 19 SEP. 1940 GOVT. OF MYSORE.

To

The Chief Secretary to Government, L.R. 323-39-36
Bangalore.

Sir,

With reference to Government Order No.P.5799-610/L.R. 323-39-17 dated 22nd May 1940 calling for my views on the points dealt with in the report of the Special Officer (Mr.H.K.Ramakrishnayya, M.A., LL.B.,) on the working of the Scheme of Debt Conciliation in the State, I have the honour to furnish herewith a statement showing the serial number of the recommendations and my opinion thereon typed in juxtaposition.

I have the honour to be,
Sir,
Your most obedient servant,

Registrar

I agree. Persuasion has its limits and it appears that it is necessary to supplement it by legislation to the extent possible.

-do-

This is not only desirable but absolutely necessary if there is to be effective conciliation and settlement. Otherwise paper settlement will be arrived at without any real and lasting benefit to any party. We must benefit by the experience of the Central ~~Provinces~~ Provinces where debts of Agriculturists were scaled down to something in the neighbourhood of 8 crores of rupees but no relief could be given. And unless there is close coordination between the Land Mortgage Bank and the Conciliation Board payment cannot be secured.

Even with the present margin of 50%, there have been defaults. In the interests of the successful working of the Land Mortgage scheme, the increase of the loan amounts to anything more than 50% of the value of the mortgaged land is not desirable.

The present ~~mi~~minimum limit of Rs.300/- is adequate. Any further lowering of the limit is not desirable. There are ordinary Co-operative Societies which could deal with loans for less than Rs.300/-

The larger the amount of the loan the greater is the risk involved. Moreover the principle to be kept in view is the greatest good of the greatest number. A large number of small loans is certainly better than a small number of large loans. The Land Mortgage Scheme is primarily meant for the benefit of the middle class agriculturists and not the Zemandari classes.

The principle to be adopted should be the other way about. Wherever Land Mortgage Banks are opened, Debt Conciliation Boards should be formed and there should be close coordination between them. The best way of securing coordination between the two agencies is by the appointment of a Director of the Land Mortgage Society as a member of the Debt Conciliation Board. The Debt Conciliation Board must have the power of co-opting the Assistant Registrar of Co-operative Societies of the Division also in necessary cases.

Yes. Scientific agriculture should be popularised by demonstration. Subsidiary occupations should be introduced and developed.

Serial No.	Recommendation
11.	This is neither necessary nor desirable. The Revenue Agency is the best agency. The Sub-Division Officers should continue as Chairmen of the Boards. They have adequate leisure to attend to this work.
12.	The strength of the Board need not be increased but the Board should have the power of co-opting additional members in necessary cases.
13.	I agree.
14.	I agree.
15.	This is desirable ~~and~~ but exceedingly difficult.
16.	I agree.
17.	I agree.
18.	I agree.
19.	I agree. This is very necessary.
20.	I agree.
21.	I agree.
22.	I agree.
23.	I agree.
24.	I do not agree to this proposal. It is stated that "opinion was fairly unanimous that the co-operative societies as at present worked did not deserve this preferential treatment" and that "they are charging high rate of interest, a higher penal rate in case of default and that they are also recovering advance interest". I am afraid that the opinion that has been collected by the Special Officer is from money lenders whose interests clash with that of co-operative societies. The high rate of interest is a thing of the past. The penal rate charged is only one

per cent higher than the ordinary rate and this higher rate is charged on the amount in default and not the entire loan. Advance interest is recovered only for one month. The judgment of the High Court quote by the Special Officer ralates to a transaction of ~~kx~~ the Bangalore Central Co-operative Bank some 15 years back. The existing proviso is all right and no amendment is called for.

I agree.

I agree.

I agree.

I agree.

It is very necesaary that the appearance of legal practitioners should be restricted. I would go a step further and prohibit their appearance as in the case of co-operative societies disputes before the Officers of the Co-operative Department.

I have no objection but since the settlement in the case of debts of co-operative societies is subject to the proviso (1)to Section 14, the necessity for this is not apparent.

May be added.

I agree.

I agree.

Registrar

In all future communications please quote
No. Bl-40-41.
Enc.

Tel Address.—"DEPCOM"
Post Box No. 34.

OFFICE OF THE DEPUTY COMMISSIONER,
BANGALORE DISTRICT.

Dated Bangalore, the 16th Septr. *1940.*

R 1174

17 SEP. 1940 GOVT. OF MYSORE

FROM

Abdul Aziz Khan, Esq., B.A.,
Deputy Commissioner,
Bangalore District.

L.R. 323-39-37

17 SEP 1940

Rajasevaprasakta B.T. Kesavaiengar, Esq., B.A.,
Chief *Secretary*
to the Government of Mysore.
Bangalore.

SIR,

Subject:—

With reference to your letter No.R. 1815 20/L.R. 323-39 dated 12th September 1940, calling for my opinion on the several points dealt with in the Special Officer's report on the working of the Debt Conciliation Board in the State, I have the honour to state that the views of the Sub Division Officer, Dodballapur Sub Division who is also the Chairman of the Debt Conciliation Board of Devanahalli were obtained and are enclosed* In agreeing with him, I must say that the various suggestions made by the Special Officer are useful for the improvement of the working of the scheme and that they may be adopted with advantage.

* for kind perusal.

I have the honour to be,
Sir,
Your most obedient servant,

Deputy Commissioner,
Bangalore District.

Enclosure to No.B1-209/40-41 dated 16-9-1940, addressed to the Chief Secretary to Government of Mysore, from the Deputy Commissioner's office. Bangalore.

Letter No.2140-41 dated 28th August 1940 from the Sub Division Officer, Dodballapur Sub Division, to the Deputy Commissioner, Bangalore District.

With reference to your memo No.B1-209/40-41 dated 12th July 1940 forwarding for report a copy of the letter from the Chief Secretary to the Government calling for my views on the report of the Special Officer on the working of the Debt Conciliation Boards in the State, I have the honour to state that from the experience gained from the working of the Board at Devanahalli, I agree with the views expressed by the Special Officer in his report under reference and consider that the suggestions made by him may be carred out with advantage.

"Copy"

B S Sayanarayana

For Deputy Commissioner,
Bangalore District.

OFFICE OF THE DEPUTY COMMISSIONER,
MANDYA DISTRICT,

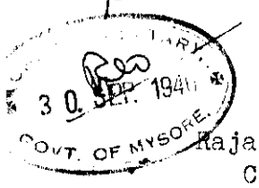
No. A1-103/40-41.
Encl. 2

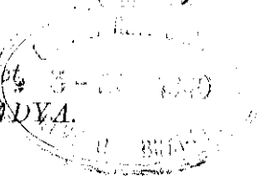
Mandya, Dated .....28th September..... *19* 40

FROM

B. S. RAGHAVENDRA RAO, ESQ., M.A. (HONS.),
Deputy Commissioner, Mandya District,
MANDYA.

R 14/04





Rajasevaprasaktha B.T.Kesavaiengar, Esq., B.A.,
Chief *Secretary to the Government of Mysore,*
..... *Department,*
BANGALORE.

L.R. 323-39-38

SIR,

Adverting to Government Order No.R.6799-810/L.R. 323-39-17 dated 22nd May 1940 publishing the report of the Special Officer re: the working of the Debt Conciliation Act in the State and calling for my views on the points dealt with therein, I have the honour to state that I agree with the recommendations made by Mr.B.K.Ramakrishnaiya, who also discussed them with me when he had come to Nagamangala and also at Mandya. I also enclose herein for your information a copy of the opinion of the Sub-Division Officer, who is the Chairman of the Debt Conciliation Board in Nagamangala. A copy of the summary of recommendations of the Special Officer printed on page 167 of the Mysore Gazette dated 6th June 1940 along with my remarks noted against the same is enclosed for ready reference.

I have the honour to be,

Sir,

Your most obedient servant,

B. Raghavendra Rao

DEPUTY COMMISSIONER,
Mandya District.

Letter No.1/40-41 dated 22-7-40, from the Sub-Division Officer, and Chairman, Debt Conciliation Board of Nagamangala Taluk to the Deputy Commissioner, Mandya.

With reference to your memo No.A1-103/40 dated 13-7-40 in the matter of furnishing my opinion on the report to - Government, by B.K.Ramakrishniah, Esq., M.A., LL.B., Asst. Secretary to the Government, and Officer on Special duty - regarding the working of the Debt Conciliation Act in the State, I have the honour to state that I agree with his views and his valuable suggestions for amending the Act.

2. Further, I wish to suggest, that it is desirable to make provisions to the effect that the Civil Courts may pass - orders and decrees on the basis of the decision arrived at, before the Board, in cases in which certificates under - Section 19 are issued; in other words the work of the Board and of the Civil Court should be co-ordinated, to achieve better results in the working of the scheme. As the creditor is an indispensible factor in our rural finances, his interest is also to be safeguarded, and hence as suggested by B.K. - Ramakrishniah, Esq., M.A., LL.B., that an amendment to Section 14 is necessary, so that the secured creditor may enter into an agreement, without fear of his loosing his lien on the secured property.

"COPY"
M.K. Appajappa,
Sub-Division Officer & Chairman, Debt Conciliation Board of Nagamangala Taluk, Trenchrocks.

"COPY"

DEPUTY COMMISSIONER,
Mandya District.

SUMMARY OF RECOMMENDATION.

No.	Para No.		
1	15	A complete adoption of compulsion is not immediately necessary or advisable.	
2	,,	The element of compulsion already present in the Act should, however, be strengthene	
3	16	Arrangements for immediate payment of settled debts is highly desirable.	
4	,,	Payment of settled debts should be arranged through the Land Mortgage Banks a Co-operative Societies.	
5	17	The maximum limit up to which loans may be granted by the Land Mortgage Banks may be raised from 50 per cent to 70 per cent of the market value of the security.	May be considered.
6	18	The minimum amount for loans granted by the Land Mortgage Banks should be lowered to Rs. 100.	
7		The upper limit of Rs. 5,000 should be raised in deserving cases where adequate security is forthcoming.	
8	19	Land Mortgage Banks should be opened in all places where the Debt Conciliation Boards are established.	This is very necessary.
9	,,	The work of the Land Mortgage Banks and the Debt Conciliation Boards should be Co-ordinated.	
10	21	The repaying capacity of the debtor should be improved.	
11	22	Judicial Officers may be tried as Chairmen of the Debt Conciliation Board in some places.	
12	23	It is not necessary to increase the strength of the Board.	
13	25	It is not necessary to amend the definition of 'debtor,' limiting the scope of the Act to pure agriculturists only.	
14	28	No debtor need be excluded on account of his pecuniary status or of his being heavily indebted.	I agree.
15	,,	Statistics regarding the agricultural indebtedness may be collected in the coming census operations of 1941.	Not possible.
16	29	Section 3 to be amended by adding a saving clause enabling the Board to function notwithstanding any vacancy due to death, resignatisn or removal.	I agree.
17	30	The following debts to be excluded from the definition of debt— (i) Claim for maintenance either under a decree of court or otherwise; (ii) Tax, cess or payment due to municipality, village panchayet or other local authority.	
18	31	The Board may be empowered to order costs when dismissing a petition for failure of a debtor to comply with a notice under section 8 (2) or to furnish particulars under section 8 (3).	I agree.
19	33	A provision to be made in the Act., placing a bar on the right of the debtor to file successive applications.	-do-
20	34	Section 9 to be amended by the addition of a clause making the application liable to be dismissed if the Board is satisfied that an alienation by the debtor within 180 days before filing the petition was with a view to defraud the creditors.	-do-
21	35	Section 14 to be amended by empowering the Board to pass an order directing an unwilling creditor to accept a fair offer by the debtor, where creditors to whom more than 50 per cent of the debts are owing, agree to an amicable settlement with the debtor.	-do-
22	36	Section 14 to be amended by permitting the existing mortgage or lien or charge to subsist when a secured creditor agrees to a settlement.	-do-
23	,,	Second proviso to section 14 also to be suitably amended.	
24	39	First proviso to section 14 to be omitted and power taken by Government to exempt such societies as in their opinion deserve the preferential treatment.	
25	40	It is not necessary to extend the period of one year prescribed in section 17.	
26	41	Act to be amended by making provision for deposit of the amount by the debtors.	
27	42	A specific clause to be added to section 19 that the repaying capacity of the debtor should also be taken into consideration.	I agree.
28	43	Right of revision against certain orders of the Debt Conciliation Board may be allowed.	
29	44	The appearance of lawyers before the Board should be restricted.	
30	45	Section 26 to be amended by providing for stay of proceedings before the Revenue Court and the Registrar of Co-operative Societies.	
31	46	An explanation to be added to section 26, that execution proceedings should be deemed to be pending until the sale becomes absolute.	
32	47	The Boards to have power to conciliate joint debts, even when only one of the debtors files the application before the Board.	
33	48	In cases where the debts are far in excess of the assets, the Board should refer the debtor to the Insolvency Court.	I agree.

Statement sh

Year	Cases pending at the beginning of the year		Cases registered during the year				Cases disposed of during							
			By debtors		By creditors		Rejected under Section 7		Dismissed under Section 9		Agreeme		Value of claims which have been compounded	Amount which clai have bee compound
	Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Percentage of cases, etc.		
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
		Rs. a. p.		Rs. a. p.		Rs. a. p.		Rs. a. p.		Rs. a. p.			Rs. a. p.	Rs. a.
agar, 1938-89 ...	...	...	84	1,84,126 0 0	20	24,387 0 0	37	77,458 0 0	31	35,569 0 0	11	10·5	5,991 0 0	5,284 0
Do 1939-40 (1st half).	25	39,495 0 0	19	26,225 4 0	1	627 3 0	14	20,391 11 6	4	5,659 9 6	4	8·9	2,866 0 0	2,196 0
Total ...	...	...	103	2,10,351 4 0	21	25,014 3 0	51	97,849 11 6	35	91,228 9 6	15	12·1	8,377 0 0	7,480 0
hikballapur, 1938-39.	...	...	28	47,013 10 10	27	20,398 8 0	13	16,542 7 10	19	26,861 9 0	...	...	...	...
hikballapur, 1939-40.	18	23,948 2 0	15	57,799 4 9	6	8,084 12 0	2	3,141 0 0	21	24,972 0 0	2	5·2	6,058 6 5	3,050 0
	...	...	73	1,04,812 15 7	33	28,428 4 5	15	19,683 7 10	40	51,833 9 0	2	2·8	6,058 6 5	3,050 0
adhugiri, 1938-39 ...	...	...	57	1,12,682 14 3	4	1,900 0 0	2	2,434 11 0	25	26,960 8 6	8	13	2,962 13 3	2,408 12
Do 1939-40 (1st half).	26	82,217 13 9	9	8,259 7 6	2	1,803 12 0	...	...	6	16,141 12 0	1	4	1,468 10 0	750 0
	...	...	66	1,21,542 5 9	6	3,703 12 0	2	2,434 11 0	31	43,102 4 6	9	12·5	4,488 7 8	3,158 12
evanhalli, 1938-39.	...	...	26	23,556 1 9	18	11,203 14 0	2	647 12 0	11	6,740 8 0	8	18·2	6,574 12 0	3,772 3
Do 1939-40 (1st half).	23	20,796 15 9	30	32,404 9 0	13	8,690 12 0	...	...	25	27,294 0 0	9	13·6	4,489 1 0	1,181 2
	...	...	56	55,960 10 9	31	14,894 10 0	2	647 12 0	36	34,034 8 0	17	19·5	11,063 13 0	4,903 5
agamangala, 1938-39.	...	...	67	67,228 2 6	46	21,988 15 10	10	8,702 11 4	7	4,246 10 6	10	8·8	17,832 9 8	11,326 6
agamangala, 1939-40 (1st half).	86	58,433 5 10	11	4,300 0 0	84	29,740 5 6	...	...	33	19,447 9 0	7	3·8	5,220 10 9	3,421 4
	...	...	78	71,528 2 6	130	51,429 5 4	10	8,702 11 4	40	23,696 3 6	17	8·1	23,053 4 5	14,747 11
oppa, 1938-39 ...	...	...	86	1,04,220 1 2	...	...	1	12,881 0 0	4	6,574 9 0	2	5·5	2,111 13 0	1,955 5
Do 1939-40 (1st half).	29	82,652 11 3	15	34,355 4 5	9	9,411 4 7	...	...	8	12,330 13 6	2	3·8	750 0 0	675 0
	...	...	51	1,38,575 5 8	9	9,411 4 7	1	12,881 0 0	12	18,905 6 6	4	6·6	2,861 13 0	2,630 5
Grand Total ...	...	...	392	7,02,770 12 8	230	1,33,176 7 4	81	1,42,199 5 8	194	2,62,801 9 0	64	10·28	55,852 12 1	35,920 1

R 1736

No. C.265/40-41.
Encl.

OFFICE OF THE REVENUE COMMISSIONER IN MYSORE.

Bangalore, dated 23rd October 1940.

FROM

Rukn-ul-Mulk
S. ABDUL WAJID, ESQ., B.A.,
Revenue Commissioner in Mysore,
Bangalore.

L.R.323-39-76

CHIEF SECRETARY 24 OCT. 1940 GOVT. OF MYSORE. Rev

To

Rajasevaprasakta
B.T. Kesavaiengar, Esq., B.A.,
Chief *Secretary to Government of His Highness*
the Maharaja of Mysore,
Department, Bangalore.

L.R. 323-39-39

SIR,

Subject:

With reference to correspondence ending with your letter No. R.1815-20/L.R.323-39 dated 12th September 1940 calling for my views on the Special Officer's Report in regard to the working of the Debt Conciliation Boards in the State, I have the honour to state that I generally agree with the recommendations of the Special Officer.

I would like however, to state that the argument advanced against Sub Division Officers continuing as Chairmen of the Debt Conciliation Boards is not very convincing. The Sub Division Officers except under very rare circumstances can keep up to their programme. The Revenue Officers I think are in a better position to influence the parties than the officers of other Departments of Government.

I have the honour to be,
Sir,
Your most obedient servant,

Abdul Wajid.

Revenue Commissioner.

OFFICE OF THE DEPUTY COMMISSIONER,
MYSORE DISTRICT.

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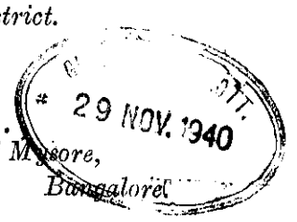
Dated, Mysore, the 23th November 1940.

FROM

K. SUBBA RAO, ESQ., B.A.,
Deputy Commissioner, Mysore District.

To

Rajasevaprasakta
B. T. KESAVAIENGAR, ESQ., B.A.
Chief *Secretary to the Government of Mysore,*
Bangalore.



SIR,

L.R. 323-39-40

With reference to Government Order No.6799-810/L.R. 323-39-17 dated the 22nd May 1940 regarding the working of the Debt Conciliation Boards in the State, I have the honor to state as follows:--

There are no Debt Conciliation Boards functioning in this District. The establishment of such a Board for the Nanjangud Taluk has been proposed, but the proposal has not yet been sanctioned. I have no personal experience of the working of these Boards. In the circumstances, I feel that I cannot offer any useful remarks on the several points dealt with in the Special Officer's Report.

I have the honor to be,
Sir,
Your most obedient servant,

Deputy Commissioner,
Mysore District.

R. C. C. No. 33 (1941)
D. D. No.
Encl. Six.

HIGH COURT OF MYSORE,
Public Office Buildings, Cubbon Park,

Bangalore, 19th December ..... *1940.*

R. C. REC. S.O. 27 DEC. 1940 L.A.G.R.

FROM

T. Shamiengar, Esq., B.A., B.L.,
~~S. Venkata Ranga Iyengar, Esq., B.A., LL.M.,~~
Registrar, High Court of Mysore.

R. 27/5

6251

Rajasevaprasakta
B.T. Kesaviengar, Esq., B.A.,
Chief Secretary to the Government
of Mysore, BANGALORE.

SIR,

With reference to your letter No.R.105/L.R.323-39-23 dated 4th July 1940, I am directed to forward herewith the minutes of the Judges of the High Court containing their opinions on the several points dealt with in the report of the Special Officer on the working of the Debt Conciliation Act in the State, published in Government Order No.R.6799-810/L.R.323-39-17 dated 22nd May 1940.

I have the honour to be,

Sir,

Your most obedient servant,

T. Shamiengar

REGISTRAR.

I have had the advantage of reading my learned brothers' opinions regarding the recommendations of the Special Officer.

It appears to me too early to throw over the Debt Conciliation Act and put an Act for the compulsory reduction of agriculturists' debts in its place. The present Act has been tried only in a few areas and for a short time; even in those areas people generally may not ~~get~~ yet understand its provisions or their benefits; and the fact that the Chairmen of the Boards ~~should be~~ are officers giving only a small fraction of their time to this work does not appear to have given the Act a fair chance.

Points 1 - 10 in the Special Officer's summary of his recommendations are not definite recommendations for amending the Act or its working, and I shall not comment on them. The definite recommendations begin at Point 11.

No.11. When my learned brothers have discussed the appointment of Judicial officers as Chairmen of Conciliation Boards, I think they have assumed that this work would be added to the officer's ordinary duties as a Judge. That I agree would not be proper. But I think the experiment of seconding a few experienced Munsiffs as full-time Chairmen of Conciliation Boards might well be tried now. It appears to me likely that they would be very successful Chairmen. If each taluk to which the Act is applied is to have a separate Board, which I think

ordinarily desirable, & seconded Munsiff could be appointed Chairman of several Boards in order that he might be fully employed.

I agree with the Special Officer's recommendations Nos.16, 17, 18, 20, 21, 22, 23, 26, 27 and 32.

In regard to No.19 I think it advisable that, if a debtor's application is dismissed, he should be debarred from preferring another for 2 years.

I am against recommendation No.24. I am not satisfied that proviso 1 to Section 14(1) requires any amendment.

In regard to No.28 I am still strongly of the opinion previously expressed by the High Court that no right to apply to any Court for revision of the proceedings of a Debt Conciliation Board should be allowed.

In regard to No.29 there does not appear to me to be any sufficient reason for interfering with the provisions of Section 25 about legal practitioners.

I am also against recommendation No.30 for the amending and extension of the provisions of Section 26.

And in regard to recommendation No.31 unlike the Special Officer I think it very undesirable that, if a sale has been held in execution before an application is made under

this Act, the question of confirming the sale should be suspended. There are enough obstacles and pitfalls in the way of a decree-holder, who tries to execute his decree by selling his judgment-debtor's property, apart from this Act. If he has got so far as having a sale held before his judgment-debtor makes any application under this Act, I see no justification for allowing the judgment-debtor at that twelvth hour to stop the proceedings and hold up the confirmation of the sale by choosing then to prefer an application under the Act, which he has not cared to do at any earlier stage. On the contrary it appears to me very unjust and unseemly that there should be anything in the Act to invite him to play such a trick on the decree-holder. I think it should be made clear that the Legislature did not intend to invite or tolerate anything of the sort.

In regard to recommendation No.33 I do not think it necessary that a Conciliation Board should have power to force a debtor into the Insolvency Court. Insolvency proceedings may be left for the creditor or debtor to initiate.

(Sd) H. D. C. Reilly,
Chief Justice.

Copy
J. Chanmugam
Registrar
18.12.40

MR. JUSTICE S.VENKATA RANGA IYENGAR.

The Debt Conciliation Act was enacted with a view to relieve agriculturists from indebtedness by amicable settlement between them and their creditors. The report of the Special Duty Officer shows that during the period of 18 months that the Act had been in operation the results achieved had not been satisfactory. That need not lead to any pessimism, as it is quite possible that many of the debtors are yet ignorant of the beneficial provisions of the Act and it is not unlikely that in course of time they will avail themselves in larger numbers of the benefits intended to be conferred on them by the Act. If it is the intention of the Govern-ment to free agriculturist debtors from their perpetual indebtedness, I do not think that any such result could be achieved by the Act. As observed by the Special Duty Officer, the real solution lies in removing the root causes of indebtedness and in improving the repaying capacity of the debtor. As to how that can be done is a problem for the Government to tackle and I do not wish to venture any opinion on that question.

As regards the doubts referred to in paragraph 8 of the report, only those

mentioned in sub-paras 1, 2 and 8 need consideration. I should think that the cost of process fee for issue of notices under Sections 8 and 10 and the cost of postage for sending notices under Section 8(2) of the Act by registered post should be borne by the applicant and such cost should be recovered by the Board from the applicant in advance. There is absolutely no justification for the Boards meeting such cost out of their contingent grants. I agree that it is desirable that necessary amendment in the rules should be made so as to empower the Boards to issue such coercive processes as may be necessary to enforce the attendance of defaulting parties and witnesses, on somewhat the same lines as in Order XVI of the Code of Civil Procedure. I do not think there is any necessity for the parties to an agreement to appear before the Sub-Registrar to get it registered. What is contemplated in Section 14(2) of the Act is that the Chairman should send the agreement to the Sub-Registrar having jurisdiction, for registration, within 30 days from the date of the agreement and it is the duty of the Registering Officer to register it automatically. The wording in Section 14(2) that "the

agreement be registered under the Mysore Registration Act, 1903, by the Chairman of the Board" does not seem to be very happy. The words "be got registered" would have been more appropriate.

Remedial measures.

I am not in favour of the view that conciliation should make room for compulsion, as, in that event, I am sure that agriculturists would find it extremely difficult to secure loans for their agricultural operations. Conciliation by amicable settlement between the creditors and the debtors seems to be the object underlying the Mysore Debt Conciliation Act. The element of compulsion therefore appears to be quite out of place in such an Act. If it is the intention of the Government that the element of compulsion, to any appreciable extent, should be introduced, it may be necessary to repeal the Act altogether and replace it by an Act like the Madras Agriculturists' Relief Act or the Bombay Agricultural Debtors' Relief Act and similar Acts that are in force elsewhere. If it is intended that in the present Act there should be some amount of compulsion, I may say that,

in addition to the elements of compulsion to be found in Sections 19 and 20 of the Act, Section 14 of the Act may be suitably amended to the extent provided in Section 19(b) of the Bengal Agricultural Debtors' Act, as suggested in paragraph 35 of the Special Duty Officer's report.

No scheme for debt conciliation would be complete and effective unless ways and means are found for the debtors to pay off the conciliated debt to the creditors. In most cases the creditors would be willing to give up a substantial portion of the debt due to them and agree to conciliation, if the debtor makes a cash payment. It is therefore imperative that the debtors should be provided with facilities for making an immediate cash payment to their creditors in order to get the maximum benefit under the Act. One of the ways suggested in the report is that it is desirable that Land Mortgage Banks are opened in all places where the Debt Conciliation Boards are established and that the work of these bodies be co-ordinated so as to secure the maximum benefit to the debtor. I doubt very much if that could be a practical proposition. As things stand at present, Land Mortgage Banks advance loans only up to

50 per cent of the value of the security offered, and on that account it may not be possible for debtors to secure loans from such Banks. The suggestion that the rules governing the grant of loans by the Land Mortgage Banks should be relaxed so as to permit them to grant loans up to 70 per cen of the value of the security offered, does appear to be sound in view of the fact that those Banks deal with others' moneys and cannot therefore be expected to take risks by granting loans to agriculturists on inadequate security. The only possible solution seems to be for the Government to grant loans to agriculturist debtors on easy terms to enable them to make cash payments the conciliated debts to their creditors. Government may recover the loans from the debtors in easy instalments.

I am against the suggestion to appoint judicial officers as ex-officio Chairmen of the Debt Conciliation Boards. Judicial officers are already over-worked and in spi of working over time they find it difficult to keep pace with the institutions, besides keeping their Courts clear of old cases. I do not think they can be burdened with

this additional work. Further, they are unsuited by temperament and position to do the kind of work that is expected of Chairmen of the Boards, as the success of the Board depends upon its ability to induce the creditors and debtors to make an amicable settlement.

Paras 23 and 29.

In my opinion there is no necessity to increase the strength of the Boards. The present arrangement of having only three members on the Board may continue. I am in favour of adding a rule, just as it is in the Central Provinces Act, that a Board having a quorum may act notwithstanding any vacancy in the number of its members other than the Chairman.

Paras 24 to 28.

In my opinion there is no need to change the definition of 'debtor' in the Act. There is not much room in Mysore for any such apprehension expressed by Sir Despande and referred to in paragraph 25 of the report because, except in big cities like Bangalore and Mysore and to some extent in Kolar Gold Fields where there is a lot of floating

population, the percentage of non-agricultural population in the State appears to be very small. I am also not in favour of making any distinction between big and small agriculturists, as both equally stand in need of relief.

Para 30.

I am in favour of excluding from the definition of 'debt' liability in respect of maintenance whether under a decree of Court or otherwise and also any taxes, cess or payment due to any Municipality, Village Panchayet or other local authority. There cannot be much difference in principle between land revenue and the taxes or cesses due to local bodies.

Para 31.

It is desirable to introduce a provision similar to Section 13(3) of the Bengal Agricultural Debtors' Act that, if the Board dismisses an application on the failure of a debtor to comply with a notice under Section 8(2) or to furnish particulars under Section 8(3), the Board may allow against the debtor such costs as it considers reasonable, and such costs may be recovered as an arrear of land revenue on an application made within

90 days by a creditor to whom it is due.

Paras 32 and 33.

It is very desirable and necessary that a debtor's right to file successive applications before the Board should be restricted. I am in favour of introducing Section 19 of the Punjab Relief of Indebtedness Act, according to which, when once an application has been made by a debtor and disposed of, no Board shall entertain a second application within two years of the date of disposal of the first application. I am not in favour of limiting the period of disability to one year only, as suggested in the report.

Para 34.

A clause may be added to Section 9 of the Act as suggested in that para.

Para 36.

I agree with the suggestion that the Act may be amended by adding a provision corresponding to Section 12-A of the Central Provinces Debt Conciliation Act.

Paras 37 to 39.

In my opinion the safeguard provided in the first proviso to Section 14 as regards

Co-operative Societies may stand as it is. I am not in favour of the view that Co-operative Societies should not be placed in a privileged position. The following suggestion in paragraph 39 of the report "In view of these considerations, it seems desirable that instead of exempting all the societies generally, the Government should be empowered to exempt particular societies or classes of societies at their discretion, so that this concession may be extended only to such of the societies as they consider to be deserving thereof by reducing the lending rate and abolishing penal interest and giving up the objectionable practice of collecting interest in advance" does not appeal to me, as it appears to me to be not desirable to make invidious distinctions between society and society.

Para 40

I do not find any necessity to amend the time limit of 12 months provided in Section 17 of the Act.

Para 41.

Proposed amendment of Section 18 may be adopted.

Para 43

I am not in favour of reconsidering the

opinion of the High Court already expressed that it is desirable that the Boards should not be trammelled by the strict procedure of Courts and that their proceedings should not be subject to revision by the High Court. When the Boards are meant to conciliate the debts, there is no reason why the orders of the Boards should not be final and why the aggrieved party should be given a remedy by way of revision against such orders. When the procedure adopted by the Boards can only be rough and ready, I cannot imagine how a revising Court would be in a position to revise the orders made by the Boards. I am not therefore in favour of the suggestion made in this paragraph of the report.

Para 44.

I do not consider it desirable, for obvious reasons, to allow legal practitioners to appear in the proceedings before the Boards whose main function is to persuade the creditors and the debtors to come to an amicable settlement.

Para 45.

The suggestion contained in this paragraph appears to me to be unnecessary in

view of the opinion expressed by me as regards the suggestions contained in paras 37 to 39 regarding Co-operative Societies.

Paras 46 and 47.

The suggestions contained in these paragraphs may be adopted.

Para 48.

I am not in favour of the suggestion contained in this paragraph. If, in view of the fact that debts are far in excess of the assets, no conciliation is possible, it is better the existing practice of dismissing the applications on that ground continues, leaving the parties to themselves.

Sd/- S.Venkata Ranga Iyengar

7-12-1940.

"Copy"

REGISTRAR.

Rajadharmaprasaktha MR. JUSTICE NAGESVARA IYER.

Scaling down of debts.

The report of the Special Duty Officer on the working of the Debt Conciliation Scheme in the State shows that the working of the Act has not by any means been satisfactory. The object of the enactment was to help the debtors pay off their debts in easy instalments by scaling down the debts and thus free them from their perpetual indebtedness. The Debt Conciliation Act was one of several enactments calculated to achieve that result. The recommendations of the Special Duty Officer are very wide in scope and I do not venture to examine all of them. Several minor details are for the Government and the Legislature to consider. I had to consider the working of the Debt Conciliation Act in another connection, i.e. while presiding over the 25th Mysore Provincial Co-operative Conference in October 1938 and I then made the following observations in my presidential address: "I shall only refer to the problems that have since arisen by the introduction of the Debt Conciliation Act. The work under the Debt Conciliation Act is done by the Revenue Officers and there seems to be no provision enabling them to pay off the scaled down debts. If, therefore, the Land Mortgage Banks have got to advance the money required not only should such banks be started all over the State and particularly in the areas to which the Act is introduced, but arrangements should be

made for the co-ordination of the working of those two agencies so that the Agency which has got to pay the debt may have a voice in working out the reliefs under the Debt Conciliation Act. Otherwise, practical difficulties in giving relief under the Act may arise." The main reason for the failure of the Act in achieving the result, which the Government had in view, is the absence of an agency for paying off scaled down debts. If the Board constituted to scale down the debts cannot arrange to pay off the debts as scaled down, there would be no inducement for the creditors to submit to the Board's jurisdiction.

The suggestion that Land Mortgage Banks should be introduced all over the State and that they should be empowered to lend up to 70 per cent of the security does not seem to be practicable. That would mean enormous capital, and the Land Mortgage Banks as they are now constituted can hardly find the sum required. These Banks deal with the share capital collected from the shareholders and from deposits from the public as also with the amounts granted by the Government at a low rate of interest. Those responsible for the management of such banks ought to be careful in advancing monies and how much amount could be advanced on the security furnished should be left to their discretion. If means are found for payment of scaled down debts, I have no doubt the Act would work very well indeed, and relieve

the masses of their indebtedness. That could be done mainly by the Government by alloting funds for the purpose and extending the working of the Act into various parts of the State ~~according~~ as the finances permit. The debts will have to be paid off as scaled down and recovered in easy instalments from the debtors by having an effectual control over their property. It is for the Government and the Legislature to find out the best mode of giving relief to debtors in this manner.

It is recommended that the repaying capacity of the debtors should be improved. That is a very noble ideal, but the difficulties in achieving that object are immense.

I quite agree that relief should be given under the Act not merely to agriculturists but to debtors of all classes and that there should be no limitation regarding the debtors' 'pecuniary status'. I do think that certain amount of compulsion will be necessary when the majority of creditors agree to settlement by the Board as otherwise a mischievous or an unprincipled creditor may defeat the objects of the Act. But the element of compulsion should be as little as possible. The recommendation that a mortgage, a lien or charge must subsist when a secured creditor agrees to a settlement is a wholesome suggestion.

The Co-operative Societies which deal with share-holders' money and deposits received from the public

should

should be shown some special consideration as one of the main objects with which the Co-operative Societies are started is to help the members to get rid of their indebtedness by lending them monies at a fairly low rate of interest and spreading the repayment over a long period. It may be, as pointed out by the Special Duty Officer, that in some cases the Co-operative Societies have not adhered to that principle. But such cases are, I am glad to mention, are rare. Since the Board is invested with very wide powers, some provision should be made for revision of their orders by a higher authority. The scope of revision may be narrowed so that there might be no revision in each and every case. I do not see why the appearance of Legal Practitioners should be altogether proscribed. In the working of the Act, several complicated questions may arise and the Board being composed of people unacquainted with intricacies of law may find Legal Practitioners of real help.

Sd/- A.R. Nagesvara Iyer,

31-10-40.

"Copy"

J. Ananthan

REGISTRAR.

BCD/2.

Mr. Justice T. Singaravelu Mudaliar.

The report of the Special Duty Officer shows that during the period of 18 months in - which the Act was in force the results achieved have not been satisfactory and he thinks that the period is too short to say that the object of the Act has not been achieved. Though the working of similar Acts in Central Provinces and the States of Cochin and Travancore was not successful, a fair trial may perhaps be given to it in our State.

The report deals with the doubts felt by the Boards who were working the Act and it is not necessary for me to deal with them, since they are matters of the interpretation of the - provisions of the Act.

Then the report deals with the remedial measures. Among the topics discussed under this head is the one providing for compulsion by the Board so as to force recalcitrant creditors to accept the decision of the Board. It is pointed out that in Central Provinces, Cochin and - Travancore States the Debt Conciliation Boards were replaced by the Debt Relief Acts which provide for compulsion. The Special Duty - Officer suggests that there should be some strengthening in the element of compulsion in order to deal with recalcitrant creditors and that is to be done so as not to come into conflict with the underlying principle of voluntary conciliation. It appears to me that the very object of the Act would be defeated if the element of compulsion is introduced into the

provisions

provisions of the Act more than what is already contained in it. In the village economy, the existence of the creditor who can advance money to the agriculturist for the latter's needs for his agricultural operations, is a necessity which cannot be lightly interfered with. And the agriculturist is a readily available means for the creditor to invest his capital on, and it must therefore be remembered that it is not wise to kill the one or the other. This should be at the background of the procedure of Conciliation Boards in order to successfully attain their object of conciliation and they must impress upon the creditor that he cannot by his recalcitrant methods kill the agriculturist altogether. I am not therefore in favour of introducing an element of compulsion any more than what is already contained in the Act.

The report then discusses the question of repayment to creditors and it is stated that the creditor is reluctant to conciliate since the debts are reduced considerably and spread over for long terms extending to 20 or 30 years and these instalments are not regularly paid. It is also stated that no scheme for the relief of indebtedness can be really helpful unless some effective means are provided for repayment of the conciliated debt. It is suggested that the Land Mortgage Banks should undertake to pay off the creditors who are conciliated and then recover that amount from the debtors. That is a matter

which is for the Land Mortgage Banks to say whether they would undertake such a burden.

Then it is stated that one way of improving a debtor is by increasing his earning capacity by educating him to use improved methods of agriculture and by inducing him to take subsidiary means of earning during non-agricultural seasons. While agreeing with this suggestion I feel doubtful if that is enough to keep the agriculturist within his borrowing capacity. The more he earns the more he borrows. It is not the need of agriculture alone that makes him borrow. The burden of such a debt cannot be heavy. What ruins him is the debt that he incurs for marriage and other ceremonial functions when he spends lavishly and beyond his means. He must therefore be prevented from doing so either by education or by legislation. It appears to me that there must be some check on the borrowing tendency of an agriculturist in order to prevent him from becoming a perpetual debtor. The borrowing capacity of an agriculturist may be determined having regard to his annual income. Any creditor who lends to the agriculturist any amount beyond his repaying capacity must do so at his risk. Some such legislation in my opinion seems to be useful.

Another suggestion made is to appoint Judicial Officers as Chairmen of the Boards since Revenue Sub-Division Officers do not find sufficient time to devote for the Boards' work.

In

In my opinion the appointment of Judicial Officers will not be conducive to the methods of conciliation which is the very object of the Act. One who knows the local conditions of the place where the debtor lives and can appreciate his difficulties and command the confidence of both the creditor and debtor would be a more suitable person I am not therefore in favour of the Judicial Officers being appointed as Chairmen. Besides, Judicial Officers have to hold the inquiries within their Court premises and far removed from the localities of the creditor and the debtor, whereas Revenue Sub-Division Officers who tour in the interior parts can hold their Courts in those localities.

I agree with the Special Duty Officer that the strength of the Board need not be increased from what it is now.

The report shows that there is a grievance in many places that even non-agriculturists are applying for relief under the provisions of the Act and the Special Duty Officer says that "it does not seem to be necessary to curtail the scope of the Act which is intended to give relief to a wider circle of persons than mere agriculturists." In my opinion the object of the Act as contained in the preamble being to give relief to agriculturists from indebtedness it should be strictly confined to agriculturists and not to others.

Then with regard to the suggestion that restrictions should be placed on the pecuniary status of the person to whom relief should be given, I am of opinion that a distinction need not be made between a big agriculturist and a small agriculturist.

With regard to the amendment of Section 3, I agree with the suggestion that a Board having a quorum may act notwithstanding any vacancy in the number of its members other than the Chairman.

I am in favour of the suggestion to exclude maintenance charges from the definition of the word 'debt' and also any tax or payment due to any municipality or village panchayet or any other local authority.

I also agree to the suggestion to introduce a provision similar to Section 13(3) of the Bengal Agricultural Debtors Act.

I agree to the suggestion to include a provision similar to Section 19 of the Punjab Relief of Indebtedness Act so as to place some restriction on the debtor in the number of applications which he may file.

I agree that a clause may be added to Section 9 to prevent fraudulent alienations.

With regard to the suggestion to amend Section 14 so as to introduce an element of compulsion I am against it. If there is to be

any compulsion at all, it cannot be introduced in an Act whose object is to conciliate.

A provision may be introduced into our Act with regard to a secured creditor similar to Section 12(A) of the Central Provinces Debt Conciliation Act.

With regard to the suggestion that Co-operative Societies should be placed on the same level as other creditors I do not agree with this suggestion. For, those Societies are dealing with monies of others and not of their own and they are intended for other laudable objects, which would be defeated if they are brought under the same category as ordinary creditors. Besides, the debtor dealt with under the Conciliation Act, if he happens to be a shareholder of a Co-operative Society, is also in a sense a creditor.

The suggestion to keep the applications for a period longer than 12 months as is contained in Section 17 may be adopted.

With regard to the suggestion that there should be an appellate or revisional tribunal to whom the aggrieved party may have recourse from the decision of the Debt Conciliation Board I am not in favour of it for the reasons already expressed by the High Court, viz. that the Boards should not be trammelled by the strict procedure of Courts and that their proceedings should not be subject to revision by the High Court.

With regard to Legal Practitioners appearing before Debt Conciliation Boards I am not in favour of their appearing before the Boards for the simple reason that the conduct of the Boards should be more of conciliation than of strict enforcement of law.

I agree to the suggestion that the "Revenue Court" or the "Registrar of the Co-operative Societies" may be added after the word 'Civil Court' in Section 28.

I do not see any objection to the proceedings being stayed after sale. As a matter of fact if applications are made under Order XXI, rules 89 to 91 of the Code of Civil Procedure, proceedings are kept pending even after sale till the determination of the questions involved in those rules.

I am not in favour of Conciliation Boards taking the responsibility of sending debtors to Insolvency Courts. If the Boards find it impossible to render help to the debtor, the parties may be left to themselves, instead of being compelled to go to Insolvency Courts.

Sd/- T. Singaravelu Mudaliar.

Copy

T. Kumaraswami

Registrar

10.12.40

VJC/8

Adl-ul-Mulk MR. JUSTICE C.ABDUL GHANI.

In paras 11 to 15 of the report the desirability or otherwise of legislation in order to secure relief from indebtedness and the question of replacing conciliation by compulsion are discussed. I am inclined to agree with the views of responsible person like Sir M.G.Deshapande, Sir Malcolm Darling and Professor B.Mukerji and the opinion expressed by the Committee appointed to consider the question of amending the Agriculturists' Relief Act. Paras 13, 15 and 20 give extracts of these views. It is only debtors who are unable to pay their debts that can apply under Section 6 to a Board. Such debtors are insolvents and can seek relief under the Insolvency Act. Debt Conciliation Boards are more or less insolvency Courts, intended to go further than the ordinary insolvency Courts which discharge a debtor after taking his property for distribution amongst the creditors. The Boards on the other hand attempt to scale down debts and arrange for payments in easy instalments with the eventual object of saving something out of the property for the debtors. If a debtor is unable to pay his debts, the situation ordinarily is that his

debts exceed his assets; and it is not apparent how, in such cases, his property or any portion of it, can be saved for him, unless the creditors can be induced to forego substantial portions of their debts. It is hardly likely that they would agree voluntarily to forego anything more than the excess of the debts over the assets, except in extraordinary circumstances. When the question was discussed some time ago at a meeting of the Civil Service Association, several of the Chairmen of the existing Boards expressed their views based on experience of the working of the Boards that unless the Boards could compel the creditors to come to terms, there was not much hope of scaling down debts by conciliation. Trend of opinion in British India is similar and in most places Debt conciliation Acts are replaced or are being replaced by Debt Relief Acts, conciliation making room for compulsion. If the idea is to help the debtors at any cost at the expense of the creditors, the Debt Conciliation Act may be replaced by a Debt Relief Act, providing for compulsory scaling down of debts. I am not sure if such attitude will not seriously affect the debtors and agriculturists

eventually. Debt legislation is coming in handy for unscrupulous debtors to delay or defeat creditors, while honest agriculturists who are not heavily involved find it difficult to raise a loan when circumstances make it necessary and which they can in the usual course pay up. Possibly, it is not worth while attempting to do something for insolvents which will seriously affect those whose position is not so bad. It is not likely either that Land Mortgage Banks or the Government will take the debts over, pay off the creditors, and grant easy terms to the debtors. Persons contemplated in the Act -i.e. those who are unable to pay their debts - are beyond the scope of Land Mortgage Banks which require security which will cover double the amount lent. The report of the Special Officer has realised the fraudulent methods adopted by debtors and the uses to which the law is being put. Speaking for myself, the Act does not appear to have achieved the object for which it was intended, and may perhaps be repealed.

Turning now to the proposed amendments, I am against judicial officers being tried as Chairmen of the Board. Their time is

fully occupied with their work, and trying to persuade creditors to come to terms is hardly the kind of task which they can be called upon to do. They are generally not on terms of familiarity with people outside their headquarters and can hardly influence the parties unless they attempt to misuse their powers and position. They cannot go out of their headquarters and meetings of the Board will have to be arranged in their headquarters alone.

Para 16 in effect suggests that unless the Government guarantees the payment of the debts as scaled down, there is not much hope of conciliation. Considering the estimated value of the debts of agriculturists, the suggestion appears impracticable. The next suggestion is that the Co-operative Societies and Land Mortgage Banks should advance long term loans and the percentage up to which the Land Mortgage Banks can lend should be raised from 50 to 70 per cent of the value of the assets. If only a debtor who is unable to pay his debts can apply for conciliation, the proposed raising of percentage is of no practical value, because the loan wanted will ordinarily be more than

what the banks can advance, unless the creditors agree to take less than two-thirds of their dues. Co-operative Societies are also not in a position to meet the demand and several of them are not in a sound financial position themselves. Suggestion in para 19 may, however, be tried.

Para 23.

I agree that it is not desirable to raise the number of members on the Board.

Para 24.

Definition of 'debtor' may stand as it is. I agree with the Special Officer.

Paras 26 to 28.

I agree with the Special Officer's views. There is no justification for making a distinction between 'big' and 'small' agriculturists. Possibly the former are in greater need of help at present and such help is likely in the long run to be more useful.

Para 29.

The suggestion may be accepted. Any vacancy in the Board ought not to come in the way of its working as long as there is a quorum.

Para 30.

Maintenance charges may be excluded from the operation of the Act as suggested, but not taxes, cesses etc. due to a Municipal Council or Village Panchayat.

Para 31.

The suggestion may be adopted. The debtor should not be allowed by his act to make a creditor's application infructuous.

Paras 32 and 33.

The proposed amendment is very necessary. The debtor can and has been holding up civil Court proceedings in the manner indicated and is mostly misusing the privilege conferred by the Act. If he applies (with a view to stay proceedings) and does not press his application and allows it to be dismissed, there must be some penalty. As in Punjab, a second application should be barred for two years at least. One year proposed by the Special Officer is not sufficiently deterrent.

Para 34.

Amendment of Section 9 as proposed is desirable and may be adopted.

Para 35.

Section 14 may be interpreted to mean that if there is a settlement with creditors to whom more than 50 per cent of the debts are due, the remaining creditors are also bound by the agreement. If there is a doubt on the point, the amendment proposed may be adopted. There is always the danger, as in insolvency cases, of fictitous debts and fictitious creditors being entered in the lists. But the others will challenge such debts.

Para 36.

Secured and unsecured creditors cannot be placed on the same level. Agreements under Section 14(1) may themselves provide for secured debts being paid out of the property that is tendered as security. If the agreements fail to provide for it, the amendment proposed is necessary and provision may be made whereby his lien on the mortgaged property is not lost even after an agreement under Section 14.

Paras 37 to 39.

The proposed change does not appeal to me. A large proportion of the Societies are working on borrowed capital and are chronic

debtors. They will be forced to apply as debtors themselves, if the proposed change is made. Some Societies may be worse than money-lenders, but to make invidious distinctions in the treatment to be accorded to them has no justification. They deal with others' monies, unlike money-lenders, and are started to do a kind of work which ought to be a help to the cause for which the Debt Conciliation Act is in force. The Special Officer himself in the earlier part of his report expects these Societies to come to the aid of the debtors and make this Act successful. If they do so and stand the chance of their loans to debtors being scaled down, the scheme will not work.

Para 41.

Proposed amendment of Section 18 may be adopted.

Para 42.

Suggestion may be ~~accepted.~~ adopted.

Para 43.

I am against the suggestion that a revision against the orders of the Board may be provided for. The High Court took that view when it was consulted before legislation

was undertaken and there is no good reason to reconsider the opinion already expressed. If the creditors and debtors agree there is no question of a revision and if they do not and the Board scales down the debts or makes an order which does not satisfy either party, the matter is hardly one for a civil Court to interfere. If the creditors are in a way forced to accept less than what is owing to them, a civil Court will find it difficult to uphold the order and revision petitions will ~~pur~~ pour in. Conciliation or compulsion will become difficult.

Para 44.

It appears desirable to exclude legal practitioners altogether from appearing either for the creditors or debtors. This is the practice in most places and the reasons are fairly apparent. The Special Officer would recommend an exception in cases where a party is not competent to present his case. Exceptions are generally troublesome and will be unduly stretched often. An agent may be allowed in such cas and where a party is far away or cannot for some reason appear himself.

Para 45.

If debts due to the Co-operative Societies are to be placed on a par with other debts, as is proposed in paras 37 to 39 amendment of Section 26 as proposed will be necessary. I have already expressed my opinion that debts due to the Societies may remain exempt from the operation of the Act as at present. If so, no amendment so as to provide for a stay of proceedings before the Registrar or Revenue Court will be necessary.

Para 46.

I do not quite follow whether the addition proposed will have the desired effect. Even as at present, confirmation of sale may be stayed, I think, in spite of the view in A.I.R. 1937 Nag.98.

Para 47.

The suggestion in the case of joint debts may be adopted.

Para 48.

I have already referred to Section 6 which requires the applicant to state that he is unable to pay his debts, which is ordinarily interpreted to mean that his debts

exceed his assets. The proper remedy is applying for insolvency and leaving the debtor or the creditor to do so. Section 6 may require an alteration permitting others who are not insolvents or on the verge of insolvency, to apply for conciliation though it may be difficult to persuade creditors to reduce their claims, when there is sufficient property to meet them. Otherwise every application almost will have to be referred to a court of insolvency.

Sd/- C.Abdul Ghani.
27-9-40.

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REGISTRAR.

Mr. Justice C. Subrahmanya Aiyar:-

The results of the working of the Debt Conciliation Act (1937) in the six taluks into which it has been introduced are not sufficiently encouraging and the expectations entertained about the scheme do not appear to have been realised. This is mostly due to the absence of any scheme for the repayment of the conciliated debts. The creditor has no inducement to agree to a scaling down of his debts. It may not be practicable for the Government to come to the relief of these debtors; but Land Mortgage Banks may to a great extent give relief by lending money on the security of the properties of the debtor whose debts are conciliated. It would be necessary to open branches of the Land Mortgage Bank in all places where Debt Conciliation Boards are established.

The adoption of a compulsory scaling down of debts does not appear to be desirable at present, as it will practically eliminate the rural money-lender who is one of the main supports of the agriculturist in spite of the ills attributed to him, and completely kill the little credit facilities available to the agriculturist. But an element of compulsion is necessary to bring to terms recalcitrant creditors in cases where the majority of creditors are agreeable to conciliation. Where creditors, to whom more than fifty per cent of the debts are owing, agree to a fair offer made by the debtor the Board may be empowered to pass an order that the agreement should be binding upon the other

creditors also. This principle is embodied in the case of a composition scheme in the Insolvency Act (where it is 75%). There is a similar provision in the Bengal Agricultural Debtors'Act.

The strength of the Board may remain as at present. A larger Board would be ~~somewhat~~ somewhat unworkable. There is good ground for the complaint that the provisions of Section 26 of the Act are abused by the unscrupulous debtor. Most debtors it is said make use of the Act only for the the purpose of checkmating execution proceedings in the Civil Courts. Just when a sale is ordered by the executing Court, the debtors files an application before the Board and under Section 26 the execution proceedings are automatically stayed. The debtor takes no further interest in his application before the Board and it is in due course dismissed. When the execution is started again the debtor adopts the same tactics. I think it was in respect of the Chikkaballapur Board that it was stated that almost all applications had to be dismissed as the debtors did not take interest in prosecuting them , and it was perhaps the main object of the debtors in filing those applications to get stayed execution proceedings in the Civil Courts pending against them. It is therefore quite necessary to prevent the use of the Act as an instrument for delaying execution proceedings in Civil Courts. As provided in the Punjab Relief of Indebtedness Act, a bar may be placed on the right of the debtor to file a second application within two years of

of the dismissal of a first application on account of the default of the debtor.

Where a debtor has alienated his properties with a view to defraud his creditors, within two years of his application to the Board the application should be dismissed. In such cases of fraud the right of the creditors to impeach the alienations in the Insolvency Court or by way of suit should not be fettered. Section 9 of the Act may be suitably amended.

In order to induce secured creditors also to enter into conciliation their right to the security should be left intact in respect of the amount which is declared due to them after conciliation.

Since the proceedings before the Board are more or less summary and the orders would be based upon the agreement of parties, it is not desirable that these proceedings should be subject to revision by or appeal to a higher tribunal. No important questions of law or procedure will be tackled by the Board and as such any power of revision appears to be unnecessary.

The appearance of lawyers before the Board should be restricted.

I agree with the other suggestions made by the Special Officer for the amendment of the Act.

The appointment of full-time officers as Chairmen of the Boards is a matter of cost. It will no doubt tend towards better working of the Boards and more frequent and regular sittings than at present. When Boards are established in all the taluks one separate Chairman may be appointed for the Boards in three or four taluks and he can devote a week or ten days for each of the taluks according to the nature of the work. This is a matter for consideration in the future.

Sd/- C.Subrahmanya Aiyar,
2-12-40.

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REGISTRAR.

SUGGESTIONS OF THE PUBLIC REFERRING TO THE REPORT OF THE SPECIAL OFFICER ON THE SUBJECT OF THE DEBT CONCILIATION ACT 1937 FOR GOVERNMENT'S KIND CONSIDERATION AS PER ORDER NO. R. 6799-810 L.R. 323-39-17 dated BANGALORE THE 22nd. MAY 1940.

REVENUE BRANCH

---------- L.R. 323-39-

I Section 14 of the Act is to be altered so that the settlement of the Board should be binding on all the creditors, secured and unsecured regardless to the fact of the consent of all or over 50% money creditors.

This alteration is so necessary when dealing with cases relating to the Coffee Estates, because unlikes Agriculturists the coffee planters has large dealings in thousands and lakhs of monies and the large creditors are prepared to the extremity to see in which court he can have the maximum benefit. In the case of the ordinary agriculturists the transactions are small and the small creditor is generally not prepared for the co: and delay and trouble of Civil Court Litigations and hence is inclined to yield to the wishes of the BOARD.

II) THE FOLLOWING RELIEFS SHOULD BE GRANTED

(a) The rate ofinterest shouldbe brought do to 4% SIMPLE. This is more or less the reasonable income from the coffee estates at present coffee prices. If the interest is exce: the debtor would not be in a position to reduce the principal de The rate is reasonable being the in largest majority a payment on super profits made by creditors after collecting large interest an penalty interest for may past years.

(b) The principal debt should bemade payabl

in reasonable small instalments extending over a large number of years as contemplated in LAND MORTGAGE BANKS.

The suggesstions of setting up Land Mortgage Banks is a correct remedy and highly appreciable, but to set up such Banks to remedy the existing and pressing evil is not practical in the present; Hence the present creditors who look forward to the assets of the debtor to discharge their debts should be considered as substututes of the Land Mortgage Banks and payments to them made payable in long annual instalments of 20 or 25 years. Coffee Estates ' securities are good so long as they are satisfactorily maintained. A coffee estate is often able to exist giving good bearing for generations 75 to 100 years and therefor no severe risk is run by the creditor. Considering that the settlement of the BOARD has serious consequences to the debtor in case of his default the balance of the concessions may be kept on the side of the debtor thereby giving him a chance to exist whilst all along he liquidates his debt systematically.

(c) If forgood and honest reasons relating to poor harvests and poor prices the debtor was unable to pay the instalments decided by the BOARD, a further concession of time may be granted to pay up the debts, always assumi that annual interest at 4% is paid. This requires no special explanation - it speaks for itself.

II) THIS RELIEF IS ALSO HUMBLY SOLICITED.

s facts hereit, owing to continued depressions and low coffee pric he coffee planters' position was becoming weak, the creditors were onstantly bring pressure -or- debtors and also giving false promise nd by such means have secured (1) Consent Decrees (2) Award Decrees 3) Mortgage with possession (4) Mortgage Simple -- reckoning t high rate of interest, penalty rate of interest and other profits rdinarily not justifiable.

In such instances the BOARD may be empowered to review such decrees and documents in the spirit of equity and justice as Civil Courts would have done. The reason for urging this before the Board is because it would facilitate proceedings before the BOARD and also save the debtor parties from heavy cost and trouble connected to Civil Court Litigations

OFFICE OF THE
FIRST MEMBER OF COUNCIL
JUN 25 1940
No ...

GEN. & REV. SECTT.
26 JUN 1940
REVENUE BRANCH.

Memorandum of the Public Service Commission referring to the report of the Special Officer on the subject of the Land Taxation Act 1937 for consideration, and returning Minister No. R. 6709-110- [illegible] dated [illegible] June, May 1940.

This relief is also humbly sollicited.

As facts have it, owing to continued depressions and low coffee prices the coffee planters' position was becoming weak the creditors were constantly bringing pressure on debtors and also giving false promises and by such means have secured (1) Consent decrees (2) Award decrees, (3) Mortgages with possession (4) Mortgages simple ~~acknowledging~~ reckoning at high rate of interest, penalty rates of interest and other profits ordinarily not justifiable. In the event of such instances the Board may be empowered to rview such decrees and documents in the spirit of equity and justice as civil courts would have done. The reason for urging this before the Board is because it would facilitate proceedings before the Board and also save the debtor parties from heavy cost and trouble connected to civil court litigations.

C. Veeragowda

K. Krishna Rao

C. V. Viswanatha Gowda

P. M. Seshachalam Naidu

Nagarthi Rao

C. Rayanath

Dr. G. Rao

J. Gurumurthy

B. P. Baragi

C. V. Basalli Rao

I. Rama Rao

G. Nagappa Chetty

Power of Commissioner to require further deposit in cases of fatal accidents.

*21-A. (1) Where any sum has been deposited by an employer as compensation payable in respect of a workman whose injury has resulted in death, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

(2) If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable, and requiring the employer to deposit the deficiency.

Powers and procedure of Commissioners.

22. The Commissioner shall have all the powers of a Civil Court under the Code of Civil Procedure, 1911, for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects, †and the Commissioners shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1904.

Appearance of parties.

23. Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or other person authorized in writing by such person.

Method of recording evidence.

24. The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be written and signed by the Commissioner with his own hand and shall form part of the record:

Provided that, if the Commissioner is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record:

Provided further that the evidence of any medical witness shall be taken down as nearly as may be, word for word.

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* This section was inserted by section 15
† These words were inserted by section 16 } of the Workmen's Compensation (Amendment) Act, 1936.

DEPT. OF REV. & AGRI.
26 JUN 1940
REVENUE BRANCH.

Suggestions of the Public referring to the report of the Special Officer on the subject of the Debt Conciliation Act 1937 for Government's consideration, as per Order No. R. 6799-110- L.R. 39-6-17 dated Bangalore the 22nd. May 1940.

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(1) Sec. 14 of the Act is to be altered so that the settlement of the Court should be binding on all the creditors, secured and unsecured and creditors to the tune of the consent of all or even of the majority of the creditors.

This alteration is so necessary when dealing with cases relating to the coffee estates, because small agriculturists the coffee planters have let loose loans in thousands and lakhs of rupees and the large creditors are prepared to the extremity to see in which court he can have the maximum benefit. In the case of the ordinary agriculturists the transactions are small as the case may be it is generally not worth for the petitioner to go to the Court and file petitions and hence is inclined to favour the case of the debtors.

principal debt. The rate is reasonable being the largest majority a payment on owner profits made by creditors after collecting large interests and penalty interests for many past years.

(b) The principal debt should be made payable in reasonable small instalments extending over a large number of years as contemplated in land mortgage banks.

The suggestion of setting up land mortgage banks is a very old and highly commendable, but to at the same time to remedy the existing and increasing evil is not practical on the reasons that the present creditors who look forward to the receipts of the debtor to discharge their debts should be consulted as substitutes of the land mortgage banks, and payments to them made in long annual instalments of 10 or 20 years. Settled estate securities are good so long as they are satisfactorily maintained, a settled estate is often able to exist giving good bearing for generations 75 to 100% and therefore no active risk is run by the creditor. Considering that the settlement of the year has serious consequences to the debtor in case of his default the balance of the concessions may be kept on the lines of the debtor thereby giving him a chance to exist whilst all things he ll remains like about symmetrically.

(C) If for good and honest reasons relating to poor harvests and low prices the debtor was unable to pay the land revenue levied by the Govt, a further concession of time may be granted to pay up the debts, always assuming that annual interest at 4% is all.

This relief is also humbly solicited.

As facts have it, owing to continued depressions and low coffee prices the coffee planters' position was becoming weak the creditors were constantly bringing pressure on debtors and also giving false promises and by such means have secured (1) Consent decrees (2) Award decrees, (3) Mortgages with possession (4) Mortgages simple ~~docketing~~ at high rate of interest, penalty rates of interest and other profits ordinarily not justifiable. In the event of such instances the Board may be empowered to revise such decrees and documents in the spirit of equity and justice as civil courts would have done. The reason for urging this before the Award is because it would facilitate proceedings before the Court and also save the debtor parties from heavy cost and trouble connected to civil court litigations.

C. Veeragowda

C. Devanath

J. Subbarayan

B.P. Basappa Shetty

C. Varadaraja Rao

Thomas Fraser

P. Krishna Rao

C.V. Shivanappa Gowda

B. Siddalingappa

T.K. Subbaiya

P.M. Sebhachalam Naidu

B. Channigappa

B.R. Ramaswamy Gowda

J. Rama Rao

G. Nagappa Chetty

L.R.323-89-~~27~~

Pet. No. 4103-

OFFICE OF THE DEWAN OF MYSORE,

Dated, 21 · 6 · 1940

5-864

SECY. LAW DEPT. 23 JUNE 1940 GOVT OF MYSORE

C. & REV. SECTT. 26 JUNE 1940 REVENUE BRANCH.

H/2576 The accompanying petition addressed to the Dewan is forwarded, with compliments, to the Secretary to Government Law Department,

for favour of disposal.

Mr BN
H/2660

Please also note
C.N.S. Rev. Branch 26/6

By Order,

B Seshadri 25/6/40

Private Secretary to the Dewan.

OFFICE OF THE DEWAN
OF MYSORE.
Date of receipt 21.6.40
Petn: Regr. No. 4105

Suggestions of the Public referring to the report of the Special Officer on the subject of the Debt Conciliation Act 1937 for Government's kind consideration, as per Order No. R. 6799-810- L.R. 323-39-17 dated Bangalore the 22nd. May 1940.

---

(1) Sec. 14 of the Act is to be altered so that the settlement of the Board should be binding on all the creditors, secured and unsecured regardless to the fact of the consent of all or over 50% money creditors.

This alteration is so necessary when dealing with cases relating to the coffee estates., beaause unlikes Agriculturists the coffee planters has large dealings in thousands and lakhs of monies and the large creditors are prepared to the extremity to see in which court he can have the maximum benefit . In the case of the ordinary agriculturists the transactions are small and the small creditor is generally not prepared for the cost and delay and trouble of Civil court litigations and hence is ~~unclaimed~~ inclined to yield to the wishes of the Board.

(2) The following reliefs should be further granted ;

(a) The rate of interest should be brought down to 4% simple. This is more or less the reasonable income which come from the coffee estates at present coffee prices. If the interest is excessive the debtor would not be in a position to reduce the

principal debt. The rate is reasonable being in the largest majority a payment on super profits made by creditors after collecting large interests and penalty interests for many past years.

(b) The principal debt should be made payable in reasonable small instalments extending over a large number of years as contemplated in Land Mortgage Banks.

The suggestion of setting up Land Mortgage Banks is correct remedy and highly appreciable, but to set up such Banks to remedy the existing and pressing evil is not practiv in the present; hence the present creditors who look forward to the assepts of the debtor to discharge their debts should be considered as substitutes of the Land Mortgage Banks, and payments to them made payable in long annual instalments of 20 or 25 years.Coffee Estate securities are good so long as they are satisfactorily maintained, a coffee estate is often able to exist giving good bearing for generations 75 to 100We and therefore no severe risk is run by the creditor. Considering that the settlement of the Board has serious consequences to the debtor in case of his default, the balance of the concessions may be kept on the side of the debtor thereby giving him a chance to exist whilst all along he liquidates his debt systematically.

(c) If for good and honest reasons relating to poor harvests and poor prices the debtor was unable to pay the instalements decided by the Board, a further concession of time may be granted to pay up the debts, always assuming that annual interest at 4% ispaid.

This requires no special explanation it speaks for itself.

This relief is also humbly sollicited.

As fatss have it, owing to continued depressions and low coiee prices the coffee planters' position was becoming weak the creditors were constantly bringing pressure on debtors and also giving false promises and by such means have secured (1) Consent Decrees (2) Award Decrees, (3) Mortgages with possession (4) Mortgages simple ~~acknowledging~~ reckoning at high rate of interest, penalty rates of interest and other profits ordinarily not justifiable. In the event of such instances the Board may be empowered to rview such decrees and documents in the spirit of equity and justice as civil courts would have done. The reason for urging this before the Board is because it would facilitate proceedings before the Board and also save the debtor-parties from heavy cost and trouble connected to civil court litigations.

R 548

~~BM~~ Extract from the Proceedings of the meeting of the
4/18 Indian Planters' Association, Mysore held on 29-6-40

14. "In the case of Debt Conciliation Boards, the Government of Mysore be requested to enlarge their power, enhance their discretion, and the term of repayment of debts be lengthened."

Mover:—Mr. C. Syed Budan Saheb. *Resolution* Passed unanimously.

C. REV. S.O.
1 AUG. 1940

Rev. Branch)

1/8/40

No action seems called for on this resolution. Of appn, this paper will be filed

Bm.
1.8.40

This may be considered along with other suggestions

1-8.

1/8

GOVERNMENT OF MYSORE. 12 3642

No. ..... C. S.

Telegraphic Address:
"CO-OPERT"
Bangalore.

DEPARTMENT OF CO-OPERATION.

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE,

Dated Bangalore. 17th *February.* 1941.

FROM

M. ABDUL HUKH, ESQ., B.A.,
Registrar of Co-operative Societies in Mysore,
BANGALORE.

To

25 FEB. 1941

J. Appaji Gowda, Esq., B.A., (Hons),
General Secretary to the Government
of Mysore, Bangalore.

Sir,

I have the honour to state that the marginally noted

"That the recommendation made by the Debt Conciliation Board in Mysore, vide Mysore Gazette dated 6th June 1940, that the concessions shown to co-operative societies under the Act now in force should be withdrawn is opposed by this Conference as such withdrawal will seriously prejudice the interests of the members of the primary co-operative societies and the Central Financing Banks.

resolution was passed at the 27th Mysore Provincial Co-operative Conference held in Mysore during October 1940. I have furnished my views on the points dealt with in the report of Mr.B.K.Ramakrishniah, M.A., LL.B., on the working of the Scheme of Debt Conciliation in the State with my letter No.3086 C.S. dated 18th September 1940 addressed to the Chief Secretary to Government

P.T.O.

Government, a copy of which is herewith sent fo information of Government.

I have the honour to be,
Sir,
Your most obedient servant,

Registrar.

L.S.22/2.

READ:-

G.O. No.3847-18/L.R.326-39-6 dated the 18th December 1939 placing Mr. B.K. Ramakrishnaiya, M.A.,L.L.B., Asst. Secy. to Govt. on special du to examine the working of the scheme of debt conciliation in the State in all its aspects an submit a report to Govt.

2. G.O. No.R.6799-810/L.R.323-39-17, dated the 22nd May 1940, publishing, for general inform tion, the report of Mr. Ramakrishnaiya and calli for the views of the High Court, the Rev. Comm the Registrar of Co-op. Societies and the Dy. Commrs. of Districts on the several recommenda- tions dealt with in the report.

ORDER NO. R 7219-68 / Ca

Dated, Bangalore, 24-4-41

The Special Officer has examined in detail the working of the Boards and has submitted an exhaustive report indicating the results achiev so far and the difficulties felt by the Debt Conciliation Boards and suggesting remedial

measures which are, in his opinion, necessary for a better and more satisfactory working of the scheme. The report was published for publi opinion and criticism. The opinions of the Dy. Commrs., the Registrar of Co-op. Societies, and the Rev. Commr have been obtained by Govt. Gov have also availed themselves of the advice of th Judges of the High Court in regard to the proposals.

2. The first and most important question considered by the Special Officer is whether the Debt Conciliation Act may be retained or whether it should be replaced by another Act providing for the compulsory scaling down of debts. While pointing out that the results achieved so far by the operation of the Act -- have not been satisfactory, the special officer is of the opinion that the poor results are -- largely due, on the one hand, to the ignorance of a large body of debtors regarding the ---

of the Act, and on the other, to the comparatively few sittings of the Boards, and the difficulties felt in the initial stages of the scheme.

Yet another reason which has contributed to the small progress is said to be the want of suitable provision for paying off the conciliated debts. The Special Officer feels that, with more propaganda, the scheme is likely to be availed of in a larger measure, particularly as it saves the heavy cost of litigation in Civil Courts and avoids the uncertainties and worries of litigation. He is, therefore, in favour of the Act being worked for some more time before coming to a definite conclusion whether the Act is really useful or not. He considers, however, that, while a complete adoption of compulsion is neither immediately necessary nor advisable, some strengthening of the element of compulsion is called for to deal with recalcitrant creditors this being effected in such a manner as not to come in conflict with the under-lying principle of voluntary conciliation. He has

accordingly suggested that when an agreement is arrived at between the debtors and the creditors to whom more than 50 per cent of the debts are due, the Board may be given the power to pass an order that the other creditors also should accept an offer made by the debtor, if in the opinion of the Board, the offer is a fair one.

In this connection, the Speci has stated in para 36 of his report that representations have been made to him in all the places visited by him that unless the distinction now made between secured and unsecured creditors is removed, no real benefit will accrue to the debtors from the Debt Conciliation Act, and that the majority of the debts being secured, the Boards are feeling helpless when any secured creditor or a number of secured creditors to whom more than 50 per cent of the debts are owing are not agreeable to reduce the debts as suggeste by the Board. He has, however, observed that whi

der section 19 of the Act, the Board has th
to give a certificate even in respect c
secured debts, which has the effect of
entitling the creditors to future costs
suit and to ~~claim~~ interest in excess of
this has not acted as a sufficien
rent on the secured creditor. Th
tance on the part of the secured c
ter into agreement with the debtor
due to the fact that, by so enteri
greement, the creditor would be red
position of an unsecured creditor a
ortgage lien on the mortgaged prop
be extinguished, while, if he refu
to the settlement, his right to p
st the secured property would be p
e proviso to section 14. With a
list the co-operation of the secur
tors also, the Special Officer con
it is desirable to amend the Act s
able the creditor, even if he entered

respect of the amount due to him so long as the am remains unpaid. He has, therefore, suggested that Act may be amended by adding a provision correspon to section 12A of the Central Provinces Debt Conciliat Act, and that as a consequence the second proviso to Sec.14 may be suitably modified. These suggestions have found general acceptance and Govt. are pleased to approve of them, and to direct that the relevant sections of the Debt Conciliation Act be amended suita bly.

3. Govt. agree that some suitable arrangement for immediate payment of settled debts is highly desirable and consider, as already stated in G.O.No.R.2652-723/ L.R.208-34-4, dated 30th Octr. 1935, that payment should be arranged for through ~~Co-op~~ Societies or Land Mortgage Banks. As a rule the scheme of Debt Conciliation will be introduced only in places where Land Mortgage Banks are already working, or are likely to be established, so that necessary agencies for paying off conciliated debts may be readily available. Govt. do not, however, consider it necessary to pass orders on the proposals in the report about reducing the minimum or raising the maximum of loans to be granted by Land Mortgage Banks or raising the percentage of the value of the security up to which loans may be granted by these Banks.

4. The expression "Debts" as defined in the Act, excludes only the arrears of wages, land revenue, rent as defined in the Land Revenue Code or any money for the recovery of which a suit is barred by limitation. As it was urged before the Special Officer that this definition works as a hardship to persons who have a right to get maintenance under the decree of a court or otherwise, and that such liability in respect of maintenance should also be excluded from the definition of the term "Debt", the Special Officer has suggested that the definition of "Debt" may be suitably amended so as to exclude any liability in respect of maintenance whether under a decree of court or otherwise. He has also suggested the desirability of excluding any tax, cess or payment due to any Municipality or Village Panchayet or other local authority. Government consider that the liability in respect of maintenance may be excluded from the definition "debt" and that the dues to local bodies may be dealt with by the Conciliation Boards as in the case of other debts.

5. The Special Officer has stated that there is a feeling that the Act, as at presen framed, is discriminative and one-sided - all against the creditor and does not provide suffi cient safeguards against ~~the~~ indifference on th part of the debtors in prosecuting the cases before the Debt Conciliation Baards, the abuse by some ~~of the~~ unscrupulous debtors of the provisions of section 26 and the right to file any number of applications, and also the attempts made by such debtors to defraud creditors by alienating their properties before applying to the Debt Conciliation Boards for relief. He considere that necessary provision should be made in the Act to prevent such abuses and has accordingly made the following suggestions:-

(1) That provision should be made in the Act that, if any debtor fails to comply with a notice under section

section 8 (3), and the Board consequently dismisses the application, it may allow against the debtor such costs as it considers reasonable and such costs shall be recoverable as an arrear of land revenue on ~~the~~ application made within 90 days by the creditor to whom the same ~~is~~ due.

) That if once an application has been made by a debtor and disposed of, no Board shall entertain a second application within one year of the date of disposal of the first application.

) That a clause ~~may~~ shall be added to section that, where a Board is satisfied that the debtor has, within 180 days before the date of the application made by him under section 4, transferred any of his property with intent to defraud his creditors, it may dismiss the petition.

Government agree that the above amend-
f the law are necessary to prevent
making frivolous applications and
ing to defraud creditors by alienating
perties before applying to the Boards for
onciliation of the debts, and direct that the
ebt Conciliation Act be amended in the manner
bove indicated.

6. It has been suggested that provision should be made in the Act for aggrieved parti taking up the orders of the Board under certa sections of the Act in revision to the Distri Judge's Court. The Judges of the High Court and a few of the Deputy Commissioners are strongly of the opinion that no provision should be made for a right of revision by civil courts. Government agree with this vie

7. Another important suggestion made by the Special Officer is as regards the personnel of Chairman of the Debt Conciliation Boards. At present Revenue Sub Division Officers are appointed as ex-officio Chairmen of these Boards on the ground that, with their local influence and knowledge of local conditions, they would be better able to persuade the parties to come to an amicable settlement. The enquiry made by the Special Officer seems to have shown that the Sub Division Officers are finding this work rather taxing as they have to do conciliation work in addition to their own numerous duties and that often, as they are

urgently called away on other duty, the [illegible] Boards are unable to meet on the dates fix for the meetings. The public seem to be o the opinion that it would conduce to speedy working of the Boards if judicial officers are appointed as chairmen of the Boards, and the Special Officer has suggested that some places, at least, experienced judicial officers may be tried as chairmen of the Boards. The majority of the Deputy Commis sioners consider that the present practice appointing Sub Division Officers as chairme is a sound one and does not require any change. Government also feel that there i no need to make any departure from the exis ing practice and that the executive officer hould be better able to bring about a con- ciliation between the parties than purely judicial officers. They direct, however, that ~~for~~ with a view to expediting the disposal of cases, whole-time revenue officer may be appointed as chairman of several Boards in a District, if the volume of work justifies such a measure

8. Government approve of the suggestions

made in paragraph 8 of the rep... ...
the recovery of the cost of issuing
notices from the applicants in advanc
and about empowering the Boards to is
coercive processes to secure the pres
of parties and witnesses.

9. The other proposals of the Special Officer, which are of a minor character, are accepted by Government to the extent indicated in the stateme appended to this order.

10. Necessary further action will taken ~~for~~ to amend~~ing~~ the Act and the Rul thereunder to give effect to the fore-going orders.

Chief Secretary to Govt.

To

The Revenue Commissioner.
The Deputy Commissioners of Distric
The Registrar of Co-operative Socie ties.
The Registrar, High Court.
The Other Heads of Departments.
The Comptroller
PRESS TABLE.

PROCEEDINGS OF THE GOVT. OF H.H. THE MAHARAJA OF MYSORE.

READ:-

G.O. No,3847-18/L.R.326-39-6 dated the 18th December 1939 placing Mr. B.K. Ramakrishnaiya, M.A.,LL.B., Asst. Secy. to Govt. on special duty to examine the working of the scheme of debt conciliation in the State in all its aspects and submit a report to Govt.

2. G.O. No.R.6799-810/L.R.323-39-17 dated the 22nd May 1940 publishing for general information the report of Mr. Ramakrishnaiya and calling for the views of the High Court, the Rev. Commr., the Registrar of Co-op. Societies and the Dy. Commrs. of Districts on the several recommendations dealt with in the report.

ORDER NO.

Dated, Bangalore,

The Special Officer has examined in detail the working of the Boards and has submitted an exhaustive report indicating the results achieved so far and the difficulties felt by the Debt Conciliation Boards and suggesting remedial

measures which are, in his opinion, necessar
for a better and more satisfactory working o
the scheme. ~~Although~~ the report was publis
for public opinion and criticism, ~~there has~~
~~practically no response which seems to sugge~~
~~whether~~ ~~the proposals made in the report fin~~
~~general acceptance~~. The opinions of the Dy.
Commrs., the Registrar of Co-op. Societies, a
the Rev. Commr. ~~and the Judges of the High Co~~
have been obtained by Govt.

2 The first and most important question
considered by the Special Officer is whether
the Debt Conciliation Act may be retained or
whether it should be replaced by another Act
providing for the compulsory scaling down of
debts. ~~Although~~ the results achieved by the
Act during ~~the period examined by the Special~~
~~Officer~~, have not been satisfactory ~~or very~~
~~encouraging, the latter~~ is of the opinion tha
the poor results are largely due, on the one
hand to the ignorance of a large

of the Act, and on the other to the comparatively few sittings of the Boards, and the difficulties felt in the initial stages of the scheme. Yet another reason which has contributed to the small progress is said to be the want of suitable provisions for paying off the conciliated debts. The Special Officer feels that with more propaganda, the scheme is likely to be availed of in a larger measure, particularly as it saves the heavy cost of litigation in civil courts and avoids the uncertainties and worries of litigation. He is , therefore, in favour of the Act being worked for some more time ~~and for watching the results~~ before coming to a definite conclusion whether the Act is really useful or not. He considers, however, that while a complete adoption of compulsion is neither immediately necessary nor advisable, some strengthening of the element of compulsion is called for to deal with recalcitrant creditors, this being effected in such a manner as not to come in conflict with the under-lying principle of voluntary conciliation. He has

accordingly suggested that an agreement be arrived between the debtors and the creditors to whom more than 50 per cent of the debts are due, that the Board may be given the power to pass an order that the creditors should accept an offer made by the debtor, if in their opinion the offer is a fair one.

In this connection, the Special Officer has discussed at para. 36 of his report that representations have been made to him from almost all the persons in all places that unless the distinction now made between secured and unsecured creditors is removed, no real benefit will accrue to the debtors from the Debt Conciliation Act, and that the majority of the debts being secured, the secured debtors were generally unwilling to agree to conciliation, with the result that the Boards were feeling helpless when any secured creditor or a number of secured creditors to whom more than 50 per cent of the debts were owing, were not agreeable to reduce the debts as suggested by the Board. He has, however, observed that while under

section 19 of the Act, the Board has the power to give a certificate even in respect of secured debts, which has the effect of disentitli the creditors to future ~~causes~~ courts of suit and to aim interest in excess of 6 per cent , this as not acted as a sufficient deterrent on the ecured creditor. This reluctance on the pa f the secured creditor to enter into agreem with the debtor is said to be due to the fac that by so entering into an agreement, the cred would be reduced to the position of an unsec creditor and that his mortgaged lien on the mortgaged property would be extinguished, w if he refused to agree to the settlement, h right to proceed against the secured prope would be protected by the proviso to secti With a view to enlist the co-operation of secured creditors also, the Special Offic considers that it is desirable to amend t even if he entered into a settlem so as to enable the creditor to retain th security in respect of the amount due to

therefore, suggested that the Act may be amended by adding a provision corresponding to section 12A of the Central Provinces Debt Conciliation Act, and that as a consequence the second proviso to sec.14 may be suitably modified. These suggestions have found general acceptance and Govt. are ~~also~~ pleased to approve of them, and to direct that the relevant sections of the Debt Conciliation Act be amended suitably.

3. Govt. agree that some suitable arrangement for immediate payment of settled debts is highly desirable and consider, as already stated in G.O. No.R.2652-723/L.R.208-34-4 dated 30th Octr. 1935 that payment should be arranged for through Co-op. Societies or Land Mortgage Banks. As a rule the scheme of Debt Conciliation will be introduced only in places where Land Mortgage Banks are already working or are likely to be established, so that necessary agencies for paying off conciliated debts may be readily available. Govt. do not, however, consider it necessary to pass orders on the proposals in the report about reducing the minimum or raising the maximum of loans to be granted by Land Mortgage Banks or raising the percentage of the value of the security up to which loans may be granted by these banks.

4. "Debts", as defined in the Act, excludes only the arrears of wages, land revenue, rent as defined in the Land Revenue Code or any money for the recovery of which a suit is barre by limitation. As it was urged before the Special Officer that this definition works as a hardship to persons who have a right to get maintenance under the decree of a court or otherwise, and that such liability in respect o maintenance should also be excluded from the definition of the term "debt", the Special Officer has suggested that the definition of "debt" may be suitably amended so as to exclude any liability in respect of maintenance whether under a decree of court or otherwise. He has also suggested the desirability of excluding an tax, cess or payment due to any Municipality or Village Panchayet or other local authority. Govt. consider that the liability in respect of maintenance may be excluded from the definition "debt" and that the dues to local bodies may be dealt with by the Conciliation Boards as in the case of other debts.

5. The Special Officer has stated that there is a feeling that the Act as at present framed is discriminative and does not provide sufficient safeguards against the indifference on the part of the debtors in prosecuting the cases before the Debt Conciliation Boards, the abuse by some of the unscrupulous debtors of the provisions of section 26 and the right to file any number of applications and also the attempts made by ~~the unscrupulous~~ such debtors ~~in~~ to defraud~~ing~~ creditors by alienating their properties before applying to the Debt Conciliation Boards for relief. He considers that ~~sufficient safeguards~~ necessary safeguards should be made in the Act to prevent such abuses and has accordingly made the following suggestions:-

(1) That provision should be made in the Act that if any debtor fails to comply with a notice under section 8 (2) or to furnish particulars u

section 8(3), and the Board consequently dismisses the application, it may allow against the debtor such costs as it considers reasonable and such ~~xxxxxxxxxxx~~ cost shall be recoverable as an arrear of land revenue on the application made within 90 days by the creditor to whom the same is due.

(2) That if once an application has been made by a debtor and disposed of, no Board shall entertain a second application within one year of the date of disposal of the first application.

(3) That a clause may be added to section 9 that where a Board is satisfied that the debtor has, within 180 days before the date of the application made by him under section 4, transferred any of his property with intent to defraud his creditors, it may dismiss the petition.

Government ~~consider~~ are that the above ~~alterations~~ amendments of the law are necessary to prevent debtors making frivolous applications and ~~their trying~~ attempting to defraud creditors by alienating the properties before applying to the Boards for conciliation of the debts and draft Bill for amended Act in the manner above indicated

6. It has been suggested that provision should be made in the Act for aggrieved parties taking up the orders of the Board under certain sections of the Act in revision to the District Judge's court. The Judges of the High Court and a few of the Dy. Commrs. are strongly of the opinion that no provision should be made for a right of ~~appeal~~ revision to civil courts. Government agree with this view.

7. Another important suggestion made by the Special Officer is ~~as~~ as regards the personnel of chairmen of the Debt Conciliation Boards. At present Revenue Sub Division Officers are appointed as ex-Officio chairmen of these Boards on the ground that with their local ~~influence~~ of local conditions influence and ~~local~~ knowledge, they would be better able to persuade the parties to come to an amicable settlement. The enquiry made by the Special Officer seems to have shown that the Sub Division Officers are finding this work rather taxing as they have to do conciliation work in addition to their own ~~multi-~~ numerous ~~farious~~ duties and that often as they are

urgently called away on other duty, the Boards are unable to meet on the dates fixed for the meetings. The public seem to be of the opinion that it would conduce to the speedy working of the Boards if judicial officers are appointed as chairmen of the Boards, and the Special Officer has suggested that in some places at least experienced judicial officers may be tried as chairmen of the Boards. The majority of the Dy. Commrs. consider that the present practice of appointing Sub Division Officers as chairmen is a sound one and does not require any change. Govt. also feel that there is no need to make any departure from th existing practice and that the executive officers would be better able to bring about a conciliation between the parties than purely judicial officers. They ~~further~~ direct that for ~~speedier~~ disposal of cases, a whole-time revenue officer may be appointed as chairman of several Boards in a District, if the volum of work justifies such a measure.

8. Govt. approve of the suggestions made in paragraph 8 of the report about the recovery of the cost of issuing notices from the applicant in advance and about empowering the Boards to issue coercive processes to secure the presence of parties and witnesses.

9. The other proposals of the Special Officer which are of a minor character ar accepted by Govt. to the extent indicated in the statement appended to this order

10. Necessary further action will be taken for amending the Act and the Rules thereunder to give effect to the foregoing orders.

12/3

Chief Secy. to Govt.

To

The Revenue Commr.
The Dy. Commrs. of Dists.
The Registrar of Co-op. Societies.
The Registrar, High Court.
The other Heads of Depts.
The Comptroller.

~~Summary of~~ Recommendation.

Sl. No.	*Para No.*	
1	15	A complete adoption of compulsion is not immediately necessary or advisable.
2	,,	The element of compulsion already present in the Act should, however, be strengthened
3	16	Arrangements for immediate payment of settled debts is highly desirable.
4	,,	Payment of settled debts should be arranged through the Land Mortgage Banks and Co-operative Societies.
5	17	The maximum limit up to which loans may be granted by the Land Mortgage Banks may be raised from 50 per cent to 70 per cent of the market value of the security.
6	18	The minimum amount for loans granted by the Land Mortgage Banks should be lowered to Rs. 100.
7	,,	The upper limit of Rs. 5,000 should be raised in deserving cases where adequate security is forthcoming.
8	19	Land Mortgage Banks should be opened in all places where the Debt Conciliation Boards are established.
9	,,	The work of the Land Mortgage Banks and the Debt Conciliation Boards should be Co-ordinated.
10	21	The repaying capacity of the debtor should be improved.
11	22	Judicial Officers may be tried as Chairmen of the Debt Conciliation Board in some places.
12	23	It is not necessary to increase the strength of the Board.
13	25	It is not necessary to amend the definition of 'debtor,' limiting the scope of the Act to pure agriculturists only.
14	28	No debtor need be excluded on account of his pecuniary status or of his being heavily indebted.
15	,,	Statistics regarding the agricultural indebtedness may be collected in the coming census operations of 1941.
16	29	Section 3 to be amended by adding a saving clause enabling the Board to function notwithstanding any vacancy due to death, resignatisn or removal.
17	30	The following debts to be excluded from the definition of debt— (i) Claim for maintenance either under a decree of court or otherwise; (ii) Tax, cess or payment due to municipality, village panchayet or other local authority.
18	31	The Board may be empowered to order costs when dismissing a petition for failure of a debtor to comply with a notice under section 8 (2) or to furnish particulars under section 8 (3).
19	33	A provision to be made in the Act., placing a bar on the right of the debtor to file successive applications.
20	34	Section 9 to be amended by the addition of a clause making the application liable to be dismissed if the Board is satisfied that an alienation by the debtor within 180 days before filing the petition was with a view to defraud the creditors.
21	35	Section 14 to be amended by empowering the Board to pass an order directing an unwilling creditor to accept a fair offer by the debtor, where creditors to whom more than 50 per cent of the debts are owing, agree to an amicable settlement with the debtor.
22	36	Section 14 to be amended by permitting the existing mortgage or lien or charge to subsist when a secured creditor agrees to a settlement.
23	,,	Second proviso to section 14 also to be suitably amended.
24	39	First proviso to section 14 to be omitted and power taken by Government to exempt such societies as in their opinion deserve the preferential treatment.
25	40	It is not necessary to extend the period of one year prescribed in section 17.
26	41	Act to be amended by making provision for deposit of the amount by the debtors.
27	42	A specific clause to be added to section 19 that the repaying capacity of the debtor should also be taken into consideration.
28	43	Right of revision against certain orders of the Debt Conciliation Board may be allowed.
29	44	The appearance of lawyers before the Board should be restricted.
30	45	Section 26 to be amended by providing for stay of proceedings before the Revenue Court and the Registrar of Co-operative Societies.
31	46	An explanation to be added to section 26, that execution proceedings should be deemed to be pending until the sale becomes absolute.
32	47	The Boards to have power to conciliate joint debts, even when only one of the debtors files the application before the Board.
33	48	In cases where the debts are far in excess of the assets, the Board should refer the debtor to the Insolvency Court.

~~25th March~~ 1940.

B. K. Ramakrishnaiya,

orders of Court

Accepted

No orders.

Not accepted
Accepted
Accepted

No orders
Accepted
Claim for maintenance may be enhanced

(18/10/23) Accepted

No amendments of the existing provision is necessary

Accepted
Accepted
Not necessary
The existing provision may continue

(3.1) Not necessary

Accepted
Not necessary

BILL TO AMEND THE MYSORE DEBT CONCILIATION ACT, 1937.

--

WHEREAS it is expedient to amend the Mysore Debt Conciliation Act, 1937;

It is hereby enacted as follows:-

Short title.

1. This Act may be called the Mysore Debt Conciliation (amendment) Act, 194 .

Amendment of sec.2, Act VI of 1937.

2. In Cl.(3) of section 2 of the Mysore Debt Conciliation Act, 1937 (hereinafter referred to as the said Act), the following words shall be added after the figure 1888,.namely,-

"Or any liability in respect of maintenance whether under decree of Court or otherwise,"

Amendment of sec. 3, of Act VI of 1937.

3. In section 3 of the said Act, sub-sections (4) and (5) shall be renumbered as sub-sections (5) and (6) respectively, and after sub-section (3), the following sub-section shall be inserted, namely,-

in case of death, resignation or removal

"(4) A Board having the prescribed quorum may act notwithstanding any vacancy in the number of its members other than the Chairman."

Insertion of new section 4A in Act VI of 1937.

4. After section 4 of the said Act the following section shall be inserted namely,-

Application for settlement of joint debts.

"4 A. ~~An app~~ If a debtor within the meaning of this Act is jointly liable with other persons for a debt,such debtor may make an application under sub-section (1) of section 4 for relief in respect of his liability in regard to such debt, and the Board, after consideration of the facts and circumstances of the case --

may pass such orders as it thinks fit under this Act regarding the debt so far as such applicant is concerned and such orders of the Board shall not be questioned in any Civil Court;

Provided that an order of the Board under this sub-section shall not affect the liability of any other person who is jointly liable with the debtor for the debt, but in no case shall the creditor to whom the debt is due to be entitled to realise more than his dues from the persons jointly liable."

Amendment of sec.9 Act,VI of 1937.

5. (1) In clause (b) of section 9 of the said Act, the following proviso shall be inserted at the end, namely,-

"Provided further that, if the Board dismisses such application on the failure of the debtor to comply with notices under sub-section (2) and (3) of section 8, the Board may allow against the debtor such costs as the Board considers reasonable and such costs shall be recoverable as a revenue demand on application made within ninety days by a creditor to whom the same is due."

(2) Section 9 of the said Act shall be renumbered as sub-section (1) and after the said sub-section, the following sub-section shall be inserted, namely,-

"(2) The Board shall dismiss the application if made under sub-section (1) of section 4 if it is satisfied that the debtor has within 180 days previous to the date of the application made by him transferred any of his property with intent to defraud any creditor."

Insertion of new sec. 9 A, in Act VI of 1937.

6. After section 9 of the said Act, the following section shall be inserted, namely,-

"9 A. If once an application has been made by a debtor and disposed of, no Board shall entertain a second application within two years of the date of disposal of the first application."

Amendment of sec.14, Act VI of 1937.

7. In section 14 of the said Act,-

(1) The second proviso to sub-section (1) shall be omitted;

(2) sub-sections (2) (3) and (4) shall be renumbered as (3), (4) and (5) respectively and after sub-section (1) the following sub-section shall be inserted, namely,--

"(2) When creditors to whom more than 50 per cent of the total debt is owing, agree to an amicable settlement with the debtor, the Board, if it considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement is a fair offer which the creditor concerned ought reasonably to accept, may pass an order that the debt to which the offer relates shall be settled in accordance with such offer;

Provided that for the purpose of this sub-section an offer shall not be considered by the Board to be a fair offer if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description.

(3) In subsection (3) as renumbered, after the figure and brackets, "(1)", the following words, figure and brackets shall be inserted, namely;-

"Or an order passed under sub-section (2)" and

(4) The following sub-section shall be inserted at the end, namely;-

"(6) When a secured creditor does not agree to the settlement under sub-section (1) and in cases governed by sub-section (2) such refusal is not considered unfair by the Board when passing an order, such settlement or order shall not affect his rights to proceed against the secured property."

Insertion of new section 14 A, in Act VI of 1937.

8. After section 14 of the said Act, the following section shall be inserted, namely.-

"14 A. When an agreement or an order registered under sub-section (3) of section 14 ~~xxxx

who, he has reason to believe, claims or is entitled to it and may pay the amount thereof to any person appearing to him to be entitled to it, or may retain it pending the decision of a civil court as to the person entitled to it.

Debtor to be deemed to have fulfilled terms of agreement.

18-C. A debtor who has made a deposit under section 18-B shall be held to have fulfilled the terms of the agreement or the order.

Bar of suits and other legal proceedings.

18-D. No suit or other legal proceeding shall be instituted against any officer in respect of anything done regarding a deposit under this Act, but nothing in this section shall prevent any person entitled to recover the amount of such deposit from recovering it from any person to whom it has been paid under section 18-B."

Amendment of section 19, Act VI of 1937.

10. In sub-section (1) of section 19 of the said Act, the word "and" at the end of clause (v) shall be omitted and after clause (vi) the following word and clause shall be added, namely.-

"and

(vii) the repaying capacity of the debtor."

Statements and objects of the Bill to amend the Debt Conciliation Act 1937.

The scheme of Debt Conciliation was introduced in six taluks with effect from July 1938 and the reports of working of the scheme showed that the results were not sufficiently ~~encouraging~~ appreciable. Various defects and omissions in the scheme were also brought to the notice of Government and suggestions for the improvement of the law in the matter made in the Representative Assembly. In these circumstances Government placed Mr. B.K.Ramakrishnaiah, M.A., LL.B., on special duty to examine the working of the scheme in all its aspects and submit a report indicating the defects if any and suggesting the lines on which action might be taken so that the object of the scheme might be realised in fuller measure.

The special officer submitted a ~~detailed~~ and exhaustive report on which Government passed orders in Government Order No.7219-68/L.R.323-39-42, dated the 24th April 1941. With view to implement the decisions arrived at by Government in the above order, it is proposed to amend the Debt Conciliation Act on the lines indicated in the Bill hereto appended.

Among the amendments proposed, the following are the ~~most~~ more important:-

1. Clause (1) of the Bill provides for taking out of purview of the Act claims in respect of maintenance.

2. Clauses (4) and (5) of the Bill provide for safeguards against indifference on the part of debtors in prosecuting before the Debt Conciliation Boards, against the abuse by ~~of the~~ unscrupulous debtors of the provisions of section 26 the right to file successive applications and also against attempts made by debtors to defraud creditors by alienating their properties before applying for relief.

3. In Clause (6) of the Bill provision is made fo ening the element of compulsion by providing that when ment is arrived at between the debtors and the creditor more than 50 % of the debts are due, the Board may pas that the other creditors also should accept an offer m debtor if in the opinion of the Board such offer is a

4. In Clause (7), a new section is proposed to be providing for secured creditors retaining their securi respect of the amounts due to them ~~until the amounts r paid~~, although they may have agreed to a settlement.

The other amendments are of a minor character.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat,

No. R.L.964. Dated, Bangalore, 26th Nov 1941.

N o t i f i c a t i o n.

Under the provisions of rule 36 of the Mysore Legislative Rules, 1941, the Dewan has been pleased to order the publication in the gazette of the accompanying Debt Conciliation (Amendment) Bill, together with the statement of objects and reasons.

By Order,

25.11.41.

Secretary to Government,
Law Department.

25/11

The Compiler, Mysore Gazette, for publication in Part IV of the gazette and supply of 350 copies to the Secretariat.

Memo No. R.L.965. Dated, Bangalore, 26th November 1941.

Copy of the above is forwarded with compliments to the Secretary, Legislative Council, for information.

By Order,

For Secretary to Government,
Law Department.

25/11

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

No. R.L.964 General and Revenue Secretariat

Dated Bangalore, 26th NOVEMBER

NOTIFICATION.

Under the provisions of rule 36 of the Mysore Legislative Rules, 1941, the Dewan has been pleased to order the publication in the gazette of the accompanying DEBT CONCILIATION (AMENDMENT) BILL, together with the statement of objects and reasons.

By Order,

M.K. Narasimharajan

for Secretary to Government,
Law Department.

The Compiler, Mysore Gazette, for publication in Part IV of the gazette and supply of 350 copies to the Secretariat.

Appendix F G—1]
R. A. & L. C.

SUBJECT.....

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Section

File No.

Serial No.

No. R.L. 1943-49.

Diary No. of letter replied to .....

To Official Memorandum

A meeting of the Select Committ
to consider the Dept Conciliation
(amendment) Bill will be held
at 8.A.M
on ~~Friday~~ Saturday, ~~the~~ 4th A
1942, ~~at 8 A.M~~ in the chambers
of the Minister for Finance and
Revenue, Old public offices
Bangalore.

General and Revenue Secretariat
R. A. & L. C.
( )

Date of issue ..20.3.42.. .....

Signed by ..Mr. B. K. Ramakrishnaiya..

By order

BVR

Secy to the Committ

List of enclosures .....

To. 1) The Members of the committee

Copied by .... R.L.19.5.1 ....

Examined by ....R.L.19.5.0 ....

copy to 2) Office Branch, for R.S. for making the necessary seating arrangements

3) R.A. & L.C. Office to depute a Reporter to report the proceedings and to make the necessary lunch arrangements

19.3.42 BVR 19-3-42

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

No. R.L. 1943-49. General and Revenue Secretariat,
Bangalore dated 25th March 1942.

Official Memorandum

A meeting of the Select Committee to consider the Debt Conciliation (amendment) Bill will be held at 8 a.m. on Saturday, 4th April 1942, in the Chambers of the Minister for Finance and Revenue, Old Public Offices, Bangalore.

By Order,

B K Ramakrishnaraja
Secretary to the Committee.
26

Copy to:
1951 1) Office Branch, G.R.S. for making the necessary seating arrangement
750 2) R.A. & C. Office, to depute a reporter report the proceedings and to make the necessary arrangement

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General & Revenue Secretariat,

No. R.L. 2043-49. Dated, Bangalore, 31st March 1942.

OFFICIAL MEMORANDUM

The meeting of the Select Committee to consider the Debt Conciliation (amendment) Bill will be held at 8-30 A.M. on Thursday 16th April 1942 in the Chambers of the Minister for Finance and Revenue, Old Public Offices, Bangalore, instead of at 8 A.M. on Saturday 4th April 1942 as previously notified in O.M.No.R.L.1948-49 dated 20th March 1942.

By Order,

MKR Ameerkrishnaraya

Secretary to the Committee.

Copy to

1) R.A. & Le Section to depute a reporter and make the necessary [illegible] arrangement

2) Office Bro [illegible] for making the necessary seating arrangement

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General & Revenue Secretariat,

No. R.L. 2043-49. Dated, Bangalore, 31st March 1942.

OFFICIAL MEMORANDUM

The meeting of the Select Committee to consider the Debt Conciliation (amendment) Bill will be held at 8-30 A.M. on Thursday 16th April 1942 in the Chambers of the Minister for Finance and Revenue, Old Public Offices, Bangalore, instead of at 8 A.M. on Saturday 4th April 1942 as previously notified in O.M.No. R.L. 1943-49 dated 30th March 1942.

By Order,

B.V. Ramakrishnaraya

Secretary to the Committee.

Appendix F (4—1]
R. A. & L. C.

SUBJECT.....

.....

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Section

File No.

Serial No.

No. R.L. 2043-49.

Diary No. of letter replied to .....

To

Official Memorandum

The meeting of the Selectem
bers on the Debt conciliation
(amendment) Bill will be held
at 8 30 A.M. on Thursday the 16th
April 1942 in the chambers of the
Minister for finance and Revenue
old public Offices Bangalore,
instead of at 8.A.M. on Saturday
4th April 1942 as previously notifi
No
in G.O. No. R.L. 1744-49 dated 20 3 42.

General and Revenue Secretariat
R. A. & L. C.
( )

Date of issue 31.3.42.

Signed by Mr. B.K. Ramakrishnaiya.

By Order

BKR

Secy to the Committee

List of enclosures .....

Copied by .....

Examined by .....

To
1) The Members of the Select committee
R.L. 2051
2) Office Branch, G.R.S. for making the
necessary seating arrangements

2050

,) R.A.F.C. Section to depute a reporter
: report the proceedings and to make
- necessary lunch arrangements

Appendix F G—1]
R. A. & L. C.

SUBJECT.....

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Diary No. of letter replied to .....

General and Revenue Secretariat
R. A. & L. C.
( )

Date of issue 21.4.42.

Signed by M. B. K. R & M. G. S. V.

List of enclosures .....

Copied by .....

Examined by .....

Section

File No.

Serial No.

No. R.L. 2331.36.

To

Official Memorandum

As decided ~~at~~ at the last meeting of the Select committee ~~to consider the~~ on the Debt Conciliation (amendment) Bill held on Thursday 16th April 1942, the next meeting of the Select committee will be held at 8:30 A.M. on ~~Tuesday~~ Monday 27th ~~28th~~ April 1942 in the Chambers of the Hon'ble Minister for Finance and Revenue Old Public Offices Bangalore.

By order

for Secy to the Govt

To

1) The Members of the Select committee
2) Office Branch, G.R.S. for making necessary seating arrangements
3) R.A.& L.C. Section to depute a

reporter to report the proceedings
and to make the necessary lunch
arrangements

W.
11-6-42

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

G. R. L. 2331-36

General and Revenue Secretariat,

Dated, Bangalore, 21st April 1942.

OFFICIAL MEMORANDUM.

As decided at the last meeting of the Select Committee on Debt Conciliation (amendment) Bill held on Thursday 16th April 1942, the next meeting of the Select Committee will be held at 8 A.M. on Monday, 27th April 1942 in the Chambers of the Minister for Finance and Revenue, Old Public Offices, Bangalore.

By Order,

B K R Ramakrishnaiya

Secretary to the Committee.

Copy to

1) Office Branch to make the necessary seating arrangement

2) R.A. to the office to depute a reporter and to make the necessary lunch arrangements

GOVERNMENT OF H[illegible] HIGHNESS THE MAHARAJA OF MYSORE

No. R.L. 233/37 General and Revenue Secretariat,

Dated, Bangalore, 21st April 1942.

OFFICIAL MEMORANDUM.

As decided at the last meeting of the Select Committee on Debt Conciliation (amendment) Bill held on Thursday 16th April 1942, the next meeting of the Select Committee will be held at 8 A.M. on Monday, 27th April 1942 in the Chambers of the Minister for Finance and Revenue, Old Public Offices, Bangalore.

By Order,

B.K. Parameshwara Murthy

Secretary to the Committee.

Appendix F G—1]
R. A. & L. C.

SUBJECT.....

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.....

General and Revenue Secretariat
R. A. & L. C.
( )

Date of issue 14.5.42

Signed by M. B. K. R.

List of enclosures Copy of Report.

Copied by ....

Examined by .....

Section

File No.

Serial No.

No. 5593-98-L.C.

Diary No. of letter replied to .....

To The Members of the Select Committee
on the Defence Conciliation (amendment)

Sir,

I have the honour to forward herewith a copy of the Report of the Select Committee on the Defence Conciliation (amendment) Bill, for your approval and to request ~~that~~ you may kindly return it to this office with your approval early

I have etc

BKR
Secy to the Govt

20.
9.5.42
Boom
11/5

No. 5593-98-L.C.

Encl: Copy of report

14th May, 1942.

To

Messrs:-
1. Mirle N.Lakshminaranappa, Esq.,
2. Khan Bahadur Mohamed Abbas Khan,
3. M.C.Linge Gowda,
4. D.S.Mallappa,
5. L.S.Rau,
6. T.Mariappa.

I have the honour to forward, herewith, a copy of the Report of the Select Committee on the Mysore Debt Conciliation (Amendment) Bill, and to request you to kindly return it early to this office, with your approval.

I have the honour to be,
Sir,
Your most obedient servant

BSKR

SECRETARY
to the Committee.

MYSORE DEBT CONCILIATION (AMENDMENT) BILL.

Select Committee Report.

We the members of the Select Committee, to which the Mysore Debt Conciliation (Amendment) Bill was referred, have considered the several clauses of the Bill and have the honour to submit the following report:-

CLAUSE 4.

We recommend that in the proposed Section 4 - A, the words "within the meaning of this Act" and "under this Act" may be omitted as unnecessary and that for the words "such debtor" the word "he" may be substituted.

CLAUSE 5:-

Sub Clause (1).

We recommend that the recovery of the costs provided for in the proviso, now proposed to be added to Section 9, could be included in Section 18(1), which provides for the recovery of sums due under agreements, and we therefore recommend that Clause (5) of the Bill may be recast as follows:-

" 5(1) in Clause (b) of Section 9 of the said Act, the following proviso shall be added before the word "or" at the end of the existing proviso, viz.

'Provided further that if the Board dismisses such application on the failure of the debtor to furnish the particulars required under sub-section (3) of Section 8, the Board may allow against the debtor such costs as it considers reasonable'.

Sub-clause (2) of Clause 5:

"We consider that the period of time prior to the making of an application within which any transfer of property is liable to result in the rejection of the

the application, should be brought into line with the period prescribed in the Mysore Insolvency Act, and we, therefore, recommend that the period of 180 days proposed in sub-clause (2) of Clause 5 may be replaced by a period of 2 years.

We also recommend that fraudulent preferences may be placed in the same position as transfers of property. We therefore recommend that Clause (b) may be recast as follows:-

" (2) Section 9 of the said Act shall be renumbered as sub-section (1) of Section 9 and after the said sub-section, the following sub-section shall be inserted, namely:-

(2) The Board shall dismiss the application made under sub-section (1) of Section 4, if it is satisfied that the debtor has within two years previous to the date of the application made by him transferred any of his property with intent to defraud, or to give fraudulent preference to, any creditor."

CLAUSE 6:

We consider that there is no right conferred by the Act to make a second application in cases other than those provided for in Section 7 and that therefore Section 9-A is unnecessary. We recommend that Clause 6 be deleted.

CLAUSE 7.

We consider that no compulsion whatever should be imposed upon a secured creditor to accept any amount less than the amount of the principal debt. We therefore recommend that the proposed sub-section (2) of Section

Section 14 may be as follows:-

"(2) Where an agreement is recorded under sub-section (1) and the Board considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement as a fair offer, which the creditor concerned ought reasonably to accept, it may pass an order that the debt to which the offer relates shall be settled in accordance with such offer;

Provided that for the purposes of this Sub-section an offer shall not be considered by the Board to be a fair offer if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description;

Provided further that a refusal by a secured creditor of an offer made by the debtor shall not be considered unreasonable if the offer involves any reduction of the principal."

We, however, consider that in such cases, the right of the creditor should be limited to a right to proceed against the secured property only. We therefore recommend that the proposed sub-section (6) of Section 14 be recast as follows:-

"(6) When a secured creditor does not agree to the settlement under sub-section (1) and in cases ~~[illegible]~~ governed by sub-section (2), such refusal is not considered unfair by the Board when passing an order, such settlement or order shall limit his rights to proceed against the ~~secured~~ secured property only."

CLAUSE 9.

Where money is deposited by a debtor with the Deputy Commissioner, we consider that proper security should be taken where claimants are under any legal disability, and that in case of all doubtful claims, a decision of a Civil Court should be insisted upon. We therefore recommend that sub-section (2) of the proposed new Section 18-B may be recast as follows:-

> *" 18-B(2):- The Deputy Commissioner shall cause a notice of such deposit to be served on every person, who, he has reason to believe, claims or is entitled to it, and may pay the amount thereof to any person appearing to him to be entitled to it subject to the taking of proper security where claimants are under any legal disability and shall, in all doubtful claims, retain it pending the decision of a Civil Court as to the person entitled to it."*

For the reasons set out under Sub-clause (1) of clause 9, we recommend that Sub Section (1) of Section 18 may be amended as follows:-

> *" 18(1):- If a debtor defaults in paying any amount awarded as costs under the second proviso to Clause (b) of sub-section (1) of Section 9, or any amount due in accordance with the terms of an agreement registered under Sub-section (3) of Section 14, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within 90 days from the date of default accompanied by a certificate from the Board regarding the amount due."*

Sub-section (3) of Section 14 exempts the Chairman of a Board from appearing before the registering officer in connection with the registration of agreements under this Act. But neither the other members of the Board,

who may have signed the agreement nor the debtor and the creditors who are parties thereto, are so exempted. As difficulties are stated to have been experienced in securing the presence of the parties within the period of 30 days mentioned in Section 14 whereby the time and trouble taken by the Board in effecting the agreement are wasted, we recommend that the attendance of the parties to the agreement before the registering officer may be dispensed with. This will ensure the registration of agreement within the time limit of 30 days. therefore recommend that sub-section (4) of Section 14 (as renumbered) of the Act may be amended as follows:-

"8(a) Notwithstanding anything contained in the Mysore Registration Act, 1908, it shall not be necessary for the Chairman or any member of the Board or any party, who has signed or otherwise authenticated the agreement referred to in sub-section (1), or the order made under sub-section (2), to appear in person or by agent at any registration office in any proceeding connected with the registration of such agreement, or to sign as provided in Section 58 of that Act.

" (b). The registering officer to whom any such agreement is sent for registration may, if he thinks fit, refer to the Chairman of the Board or to any other person for information respecting the same, and on being satisfied of the execution thereof, shall register the agreement."

Consequential upon the amendments to Section 14, we recommend that in sub-section (8) of Section 19, for the words, figures and brackets "sub-section (2) of -- Section 14", the words, figures and brackets "Sub-section (8) of Section 14" be substituted.

As we consider that the Bill has been altered so as to require re-publication, we recommend that the bill as amended may be re-published.

As required by the Mysore Legislative Rules, the Mysore Debt Conciliation (Amendment) Bill has been published in the Official Gazette, both in English and in Kannada on the 27th November 1941.

Appendix F G—1]
R. A. & L. C.

SUBJECT.....

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Section

File No.

Serial No.

No. 6755-57-Le.

Diary No. of letter replied to .....

To
Messrs
1) D.S. Mallappa
2) M.C. Lingegowda
3) T. Mariappa

General and Revenue Secretariat
R. A. & L. C.
( )

Sir,

I have the honour to invite reference to this office letter No 5593-98 Le dated 14-5-42 enclosing a copy of the Select Committee Report on the Mysore Dept Conciliation (Amendment) Bill for your approval and ~~return~~, and to request you to kindly return the ~~Score~~ report with your approval at an early date.

I have the

Date of issue 25.5.42

Signed by ..... M. B. K. R.

List of enclosures .....

Copied by .....

Examined by .....

Secretary to
the Select Committee

25-5-42 BVN 25/5

No. 6755-57 L.C.

1) D.S.Mallappa, Esq., Tiptur,
2) M.C.Linge Gowda, Esq., Bangalore,
3) T.Mariyappa, Esq.,

I have the honour to invite reference to this office letter No.5598-98/L.C. dated 14th May 1943, enclosing a copy of the Select Committee Report on the Mysore Debt Conciliation (Amendment) Bill for your approval; and to request you to kindly return the report with your approval at an early date.

I have the honour to be,

Sir,

Your most obedient servant,

SECRETARY
to The Select Committee.

PR.

Appendix F G—1]
R. A. & L. C.

SUBJECT.....

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.....

Diary No. of letter replied to .....

General and Revenue Secretariat
R. A. & L. C.
(.)

Date of issue .....

Signed by .....

List of enclosures .....

Copied by .....

Examined by .....

Section

File No.

Serial No.

No.

To
Mr. T. Marieappa Esq.
Member Legislative Council
Advocate, Mysore

Sir,

I have the honour to in reference to this office letter 6755-57 L C dated 25.5.42 and to letter No 5593-98 L C dated 14 enclosing a copy of the Select Co Report on the Mysore Dept Conciliation (amendment) Bill for your a and to request you to kindly return the report with your immediately approval so as to facilitate t taking of further action in thi

Thanking you,

MKP

Secy to
Select Committee

30.5.42 BDM 30/5-

No. 7161. L.C.

30th May 1942.
1st June

T. Mariappa, Esq., B.A., LL.B.,
Member, Legislative Council and
Advocate, Mysore.

I have the honour to invite reference to this office letter No.6755-57 L.C. dated 25th May 1942 and also to letter No.5593-98 L.C. dated 14th May 1942 enclosing a copy of the Select Committee Report on the Mysore Debt Conciliation (amendment) Bill for your approval, and to request you to kindly return the report with your approval immediately so as to facilitate the taking of further action in the matter.

I have the honour to be,
Sir,
Your most obedient servant,

BKR

Secretary to the
Select Committee.

MYSORE DEBT CONCILIATION (AMENDMENT) BILL.

Select Committee Report.

We the members of the Select Committee, to which the Mysore Debt Conciliation (Amendment) Bill was referred, have considered the several clauses of the Bill and have the honour to submit the following report:-

CLAUSE 4.

We recommend that the proposed Section 4 - A, the words "within the meaning of this Act" and "under this Act" may be omitted as unnecessary and that for the words "such debtor" the word "he" may be substituted.

CLAUSE 5:-

Sub Clause (1).

We recommend that the recovery of the costs provided for in the proviso, now proposed to be added to Section 9, could be included in Section 18(1), which provides for the recovery of sums due under agreements, and we therefore recommend that Clause (5) of the Bill may be recast as follows:-

" 5(1) in Clause (b) of Section 9 of the said Act, the following proviso shall be added before the word "or" at the end of the existing proviso, viz.

'Provided further that if the Board dismisses such application on the failure of the debtor to furnish the particulars required under sub-section (2) of Section 8, the Board may allow against the debtor such costs as it considers reasonable'.

Sub-clause (2) of Clause 5:

"We consider that the period of time prior to the making of an application within which any transfer of property is liable to result in the rejection of the

the application, should be brought into line with the period prescribed in the Mysore Insolvency Act, and we, therefore, recommend that the period of 180 days proposed in sub-clause (2) of Clause 5 may be replaced by a period of 2 years.

We also recommend that fraudulent preferences may be placed in the same position as transfers of property. We therefore recommend that Clause (b) may be recast as follows:-

" (2) Section 9 of the said Act shall be renumbered as sub-section (1) of Section 9 and after the said sub-section, the following sub-section shall be inserted, namely:-

" (2) The Board shall dismiss the application made under sub-section (1) of Section 4, if it is satisfied that the debtor has within two years previous to the date of the application made by him transferred any of his property with intent to defraud, or to give fraudulent preference to, any creditor."

CLAUSE 6:

We consider that there is no right conferred by the Act to make a second application in cases other than those provided for in Section 7 and that therefore Section 9-A is unnecessary. We recommend that Clause 6 be deleted.

CLAUSE 7.

We consider that no compulsion whatever should be imposed upon a secured creditor to accept any amount less than the amount of the principal debt. We therefore recommend that the proposed sub-section (2) of Section

Section 14 may be as follows:-

"(2) Where an agreement is recorded under sub-section (1) and the Board considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement as a fair offer, which the creditor concerned ought reasonably to accept, it may pass an order that the debt to which the offer relates shall be settled in accordance with such offer;

Provided that for the purposes of this Sub-section an offer shall not be considered by the Board to be a fair offer if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description;

Provided further that a refusal by a secured creditor of an offer made by the debtor shall not be considered unreasonable if the offer involves any reduction of the principal."

We, however, consider that in such cases, the right of the creditor should be limited to a right to proceed against the secured property only. We therefore recommend that the proposed sub-section (6) of Section 14 be recast as follows:-

"(6) When a secured creditor does not agree to the settlement under sub-section (1) and in cases ~~Assessment~~ governed by sub-section (2), such refusal is not considered unfair by the Board when passing an order, such settlement or order shall limit his rights to proceed against the secured property only."

CLAUSE 9.

Where money is deposited by a debtor with the Deputy Commissioner, we consider that proper security should be taken where claimants are under any legal disability, and that in cases of all doubtful claims, a decision of a Civil Court should be insisted upon. We therefore recommend that sub-section (2) of the proposed new Section 18-B may be recast as follows:-

" 18-B(2):- The Deputy Commissioner shall cause a notice of such deposit to be served on every person, who, he has reason to believe, claims or is entitled to it, and may pay the amount thereof to any person appearing to him to be entitled to it subject to the taking of proper security where claimants are under any legal disability and shall, in all doubtful claims, retain it pending the decision of a Civil Court as to the person entitled to it."

For the reasons set out under Sub clause (1) of clause 9, we recommend that Sub-Section (1) of Section 18 may be amended as follows

" 18(1):- If a debtor defaults in paying any amount awarded as costs under the second proviso to Clause (b) of sub-section (1) of Section 9, or any amount due in accordance with the terms of an agreement registered under Sub-section (3) of Section 14, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within 90 days from the date of default accompanied by a certificate from the Board regarding the amount due."

Sub-section (3) of Section 14 exempts the Chairman of a Board from appearing before the registering officer in connection with the registration of agreements under this Act. But neither the other members of the Board,

who

who may have signed the agreement nor the debtor and the creditors who are parties thereto, are so exempted. As difficulties are stated to have been experienced in securing the presence of the parties within the period of 30 days mentioned in Section 14 whereby the time and trouble taken by the Board in effecting the agreement are wasted, we recommend that the attendance of the parties to the agreement before the registering officer may be dispensed with. This will ensure the registration of agreement within the time limit of 30 days. We therefore recommend that sub-section (4) of Section 14 (as renumbered) of the Act may be amended as follows:-

> "8(a) Notwithstanding anything contained in the Mysore Registration Act, 1908, it shall not be necessary for the Chairman or any member of the Board or any party, who has signed or otherwise authenticated the agreement referred to in sub-section (1), or the order made under sub-section (2), to appear in person or by agent at any registration office in any proceeding connected with the registration of such agreement, or to sign as provided in Section 58 of that Act.
>
> " (b). The registering officer to whom any such agreement is sent for registration may, if he thinks fit, refer to the Chairman of the Board or to any other person for information respecting the same, and on being satisfied of the execution thereof, shall register the agreement."

Consequential upon the amendments to Section 14, we recommend that in sub-section (8) of Section 19, for the words, figures and brackets "sub-section (2) of -- Section 14", the words, figures and brackets "Sub-section (8) of Section 14" be substituted.

As we consider that the Bill has been altered so as to require re-publication, we recommend that the bill as amended may be re-published.

As required by the Mysore Legislative Rules, the Mysore Debt Conciliation (Amendment) Bill has been published in the Official Gazette, both in English and in Kannada on the 27th November 1941.

Approved
Small affairs
27/27-5-42

M. C. LINGE GOWDA,
DEPUTY PRESIDENT,
MYSORE LEGISLATIVE COUNCIL,

Alisandra P.O.

25.5.42.

The Secretary
Mysore Legislative Council
Bangalore

Dear Sir,

The enclosed Report of the Select Committee on the Mysore Debt Conciliation Bill is herewith submitted with my [illegible] C.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

Office of the Secretary,
Representative Assembly and Legislative Council.

Bangalore, Dated, 15th May, 1942.

No. 5593-98-L.C.
End. one.

FROM

The Secretary,
Representative Assembly and Legislative Council,

To

M. C. Linge Gowda, Esquire, Member, Select Committee on the Mysore Debt Conciliation (Amendment) Bill, BANGALORE.

SIR,

I have the honour to forward, herewith, a copy of the Report of the Select Committee on the Mysore Debt Conciliation (Amendment) Bill, and to request you to kindly return it early to this office, with your approval.

I have the honour to be,
Sir,
Your most obedient servant,

SECRETARY
to the Committee.

MYSORE DEBT CONCILIATION (AMENDMENT) BILL.

Select Committee Report.

We the members of the Select Committee, to which the Mysore Debt Conciliation (Amendment) Bill was referred, have considered the several clauses of the Bill and have the honour to submit the following report:-

CLAUSE 4.

We recommend that in the proposed Section 4 - A, the words "within the meaning of this Act" and "under this Act" may be omitted as unnecessary and that for the words "such debtor" the word "he" may be substituted.

CLAUSE 5:-

Sub Clause (1).

We recommend that the recovery of the costs provided for in the proviso, now proposed to be added to Section 9, should be included in Section 18(1), which provides for the recovery of sums due under agreements, and we therefore recommend that Clause (5) of the Bill may be recast as follows:-

" 5(1) in Clause (b) of Section 9 of the said Act, the following proviso shall be added before the word "or" at the end of the existing proviso, viz.

'Provided further that if the Board dismisses such application on the failure of the debtor to furnish the particulars required under sub-section (2) of Section 8, the Board may allow against the debtor such costs as it considers reasonable'.

Sub-clause (2) of Clause 5:

"We consider that the period of time prior to the making of an application within which any transfer of property is liable to result in the rejection of the

the application, should be brought into line with the period prescribed in the Mysore Insolvency Act, and we, therefore, recommend that the period of 180 days proposed in sub-clause (2) of Clause 5 may be replaced by a period of 2 years.

We also recommend that fraudulent preferences may be placed in the same position as transfers of property. We therefore recommend that Clause (b) may be recast as follows:-

"(2) Section 9 of the said Act shall be renumbered as sub-section (1) of Section 9 and after the said sub-section, the following sub-section shall be inserted, namely:-

"9 (2) The Board shall dismiss the application made under sub-section (1) of Section 4, if it is satisfied that the debtor has within two years previous to the date of the application made by him transferred any of his property with intent to defraud, or to give fraudulent preference to, any creditor."

CLAUSE 6:

We consider that there is no right conferred by the Act to make a second application in cases other than those provided for in Section 7 and that therefore Section 9-A is unnecessary. We recommend that Clause 6 be deleted.

CLAUSE 7.

We consider that no compulsion whatever should be imposed upon a secured creditor to accept any amount less than the amount of the principal debt. We therefore recommend that the proposed sub-section (2) of Section

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Section 14 may be as follows:-

"(2) Where an agreement is recorded under sub-section (1) and the Board considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement as a fair offer, which the creditor concerned ought reasonably to accept, it may pass an order that the debt to which the offer relates shall be settled in accordance with such offer;

Provided that for the purposes of this Sub-section an offer shall not be considered by the Board to be a fair offer if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description;

Provided further that a refusal by a secured creditor of an offer made by the debtor shall not be considered unreasonable if the offer involves any reduction of the principal."

We, however, consider that in such cases, the right of the creditor should be limited to a right to proceed against the secured property only. We therefore recommend that the proposed sub-section (6) of Section 14 be recast as follows:-

"(6) When a secured creditor does not agree to the settlement under sub-section (1) and in cases ~~xxxxxxxx~~ governed by sub-section (2), such refusal is not considered unfair by the Board when passing an order, such settlement or order shall limit his rights to proceed against the ~~secured~~ secured property only."

Contd....

CLAUSE 9.

Where money is deposited by a debtor with the Deputy Commissioner, we consider that proper security should be taken where claimants are under any legal disability, and that in case of all doubtful claims, a decision of a Civil Court should be insisted upon. We therefore recommend that sub-section (2) of the proposed new Section 18-B may be recast as follows:-

" 18-B(2):- The Deputy Commissioner shall cause a notice of such deposit to be served on every person, who, he has reason to believe, claims or is entitled to it, and may pay the amount thereof to any person appearing to him to be entitled to it subject to the taking of proper security where claimants are under any legal disability and shall, in all doubtful claims, retain it pending the decision of a Civil Court as to the person entitled to it."

In the reasons set out under Sub clause (1) of clause 5, we recommend that Sub Section (1) of Section 18 may be amended as follows

" 18(1):- If a debtor defaults in paying any amount awarded as costs under the second proviso to Clause (b) of sub-section (1) of Section 9, or any amount due in accordance with the terms of an agreement registered under Sub-section (3) of Section 14, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within 90 days from the date of default accompanied by a certificate from the Board regarding the amount due."

Sub-section (3) of Section 14 exempts the Chairman of a Board from appearing before the registering officer in connection with the registration of agreements under this Act. But neither the other members of the Board,

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who may have signed the agreement nor the debtor and the creditors who are parties thereto, are so exempted. As difficulties are stated to have been experienced in securing the presence of the parties within the period of 30 days mentioned in Section 14 whereby the time and trouble taken by the Board in effecting the agreement are wasted, we recommend that the attendance of the parties to the agreement before the registering officer may be dispensed with. This will ensure the registration of agreement within the time limit of 30 days. We therefore recommend that sub-section (4) of Section 14 (as renumbered) of the Act may be amended as follows:-

> "8(a) Notwithstanding anything contained in the Hire Purchase Registration Act, 1958, it shall not be necessary for the Chairman or any member of the Board or any party, who has signed or otherwise authenticated the agreement referred to in sub-section (1), or the order made under sub-section (2), to appear in person or by agent at any registration office in any proceeding connected with the registration of such agreement, or to sign as provided in Section 58 of that Act.
>
> " (b). The registering officer to whom any such agreement is sent for registration may, if he thinks fit, refer to the Chairman of the Board or to any other person for information respecting the same, and on being satisfied of the execution thereof, shall register the agreement."

Consequential upon the amendments to Section 14, we recommend that in sub-section (8) of Section 19, for the words, figures and brackets "sub-section (2) of -- Section 14", the words, figures and brackets "Sub-section (8) of Section 14" be substituted.

As we consider that the Bill has been altered so as to require re-publication, we recommend that the bill as amended may be re-published.

As required by the Mysore Legislative Rules, the Mysore Debt Conciliation (Amendment) Bill has been published in the Official Gazette, both in English and in Kannada on the 27th November 1941.

No. 603 1197 R1

Office of the Advocate-General
in Mysore,
Bangalore, dated 19th May, 1942.

From

Mirle N. Lakshminaranappa, Esq., B.A.,LL.B.,
Advocate-General and Member of the Select Committee
on the Mysore Debt Conciliation (Amt) Bill,
Bangalore.

To

The Secretary to the Select Committee,
Bangalore.

Sir,

With reference to your letter No.5593-98/L.C., dated the 14th May 1942, I have the honor to return herewith, duly approved the draft report of the Select Committee on the Mysore Debt Conciliation (Amendment) Bill, received with your above letter.

I have the honor to be,
Sir,
Your most obedient servant,

Advocate-General.

MYSORE DEBT CONCILIATION (AMENDMENT) BILL.

Select Committee Report.

We the members of the Select Committee, to which the Mysore Debt Conciliation (Amendment) Bill was referred, have considered the several clauses of the Bill and have the honour to submit the following report:-

CLAUSE 4.

We recommend that the proposed Section 4 - A, the words "within the meaning of this Act" and "under this Act" may be omitted as unnecessary and that for the words "such debtor" the word "he" may be substituted.

CLAUSE 5:-

Sub Clause (1).

We recommend that the recovery of the costs provided for in the proviso, now proposed to be added to Section 9, could be included in Section 18(1), which provides for the recovery of sums due under agreements, and we therefore recommend that Clause (5) of the Bill may be recast as follows:-

" 5(1) in Clause (b) of Section 9 of the said Act, the following proviso shall be added before the word "or" at the end of the existing proviso, viz.

'Provided further that if the Board dismisses such application on the failure of the debtor to furnish the particulars required under sub-section (8) of Section 8, the Board may allow against the debtor such costs as it considers reasonable'.

Sub-clause (2) of Clause 5:

"We consider that the period of time prior to the making of an application within which any transfer of property is liable to result in the rejection of the

the application, should be brought into line with the period prescribed in the Mysore Insolvency Act, and we, therefore, recommend that the period of 180 days proposed in sub-clause (2) of Clause 5 may be replaced by a period of 2 years.

We also recommend that fraudulent preferences may be placed in the same position as transfers of property. We therefore recommend that Clause (b) may be recast as follows:-

" (2) Section 9 of the said Act shall be renumbered as sub-section (1) of Section 9 and after the said sub-section, the following sub-section shall be inserted, namely:-

" 2 (2) The Board shall dismiss the application made under sub-section (1) of Section 4, if it is satisfied that the debtor has within two years previous to the date of the application made by him transferred any of his property with intent to defraud, or to give fraudulent preference to, any creditor."

CLAUSE 6:

We consider that there is no right conferred by the Act to make a second application in cases other than those provided for in Section 7 and that therefore Section 9-A is unnecessary. We recommend that Clause 6 be deleted.

CLAUSE 7.

We consider that no compulsion whatever should be imposed upon a secured creditor to accept any amount less than the amount of the principal debt. We therefore recommend that the proposed sub-section (2) of Section

Section 14 may be as follows:-

"(2) Where an agreement is recorded under sub-section (1) and the Board considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement as a fair offer, which the creditor concerned ought reasonably to accept, it may pass an order that the debt to which the offer relatee shall be settled in accordance with such offer;

Provided that for the purposes of this Sub-section an offer shall not be considered by the Board to be a fair offer if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description;

Provided further that a refusal by a secured creditor of an offer made by the debtor shall not be considered unreasonable if the offer involves any reduction of the principal."

We, however, consider that in such cases, the right of the creditor should be limited to a right to proceed against the secured property only. We therefore recommend that the proposes sub-section (6) of Section 14 be recast as follows:-

"(6) When a secured creditor does not agree to the settlement under sub-section (1) and in cases ~~Government~~ governed by sub-section (2), such refusal is not considered unfair by the Board when passing an order, such settlement or order shall limit his rights to proceed against the secured property only."

CLAUSE 9.

Where money is deposited by a debtor with the Deputy Commissioner, we consider that proper security should be taken where claimants are under any legal disability, and that in the case of all doubtful claims, a decision of a Civil Court should be insisted upon. We therefore recommend that sub-section (2) of the proposed new Section 18-B may be recast as follows:-

" 18-B(2):- The Deputy Commissioner shall cause a notice of such deposit to be served on every person, who, he has reason to believe, claims or is entitled to it, and may pay the amount thereof to any person appearing to him to be entitled to it subject to the taking of proper security where claimants are under any legal disability and shall, in all doubtful claims, retain it pending the decision of a Civil Court as to the person entitled to it."

For the reasons set out under Sub-clause (1) of clause 5, we recommend that Sub Section (1) of Section 18 may be amended as follows

" 18(1):- If a debtor defaults in paying any amount awarded as costs under the second proviso to Clause (b) of sub-section (1) of Section 9, or any amount due in accordance with the terms of an agreement registered under Sub-section (8) of Section 14, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within 90 days from the date of default accompanied by a certificate from the Board regarding the amount due."

Sub-section (3) of Section 14 exempts the Chairman of a Board from appearing before the registering officer in connection with the registration of agreements under this Act. But neither the other members of the Board,

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who may have signed the agreement nor the debtor and the creditors who are parties thereto, are so exempted. As difficulties are stated to have been expereinced in securing the presence of the parties with in the period of 30 days mentioned in Section 14 whereby the time and trouble taken by the Board in effecting the agreement are wasted, we recommend that the attendance of the parties to the agreement before the registering officer may be dispensed with. This will ensure the registration of agreement within the time limit of 30 days. We therefore recommend that sub-section (4) of Section 14 (as renumbered) of the Act may be amended as follows:-

> "3(a) Notwithstanding anything contained in the Mysore Registration Act, 1908, it shall not be necessary for the Chairman or any member of the Board or any party, who has signed or otherwise authenticated the agreement referred to in sub-section (1), or the order made under sub-section (2), to appear in person or by agent at any registration office in any proceeding connected with the registration of such agreement, or to sign as provided in Section 58 of that Act.
>
> " (b). The registering officer to whom any such agreement is sent for registration may, if he thinks fit, refer to the Chairman of the Board or to any other person for information respecting the same, and on being satisfied of the execution thereof, shall register the agreement."

Consequential upon the amendments to Section 14, we recommend that in sub-section (3) of Section 19, for the words, figures and brackets "sub-section (2) of -- Section 14", the words, figures and brackets "Sub-section (3) of Section 14" be substituted.

As we consider that the Bill has been altered so as to require re-publication, we recommend that the bill as amended may be re-published.

As required by the Mysore Legislative Rules, the Mysore Debt Conciliation (Amendment) Bill has been published in the Official Gazette, both in English and in Kannada on the 27th November 1941.

Approved
Mookanakshmi
Hanumappa
18-5-42

PR.
9-5-42.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

Office of the Secretary,
Representative Assembly and Legislative Council.

Bangalore, Dated, 14th May, 1942.

No. 5693-98-L.C.
End. one.

FROM

The Secretary,
Representative Assembly and Legislative Council.

To

Khan Bahadur Mohamed Abbas Khan, Member of the Select Committee on the Mysore Debt Conciliation (Amendment) Bill, Bangalore.

SIR,

I have the honour to forward, herewith, a copy of the Report of the Select Committee on the Mysore Debt Conciliation (Amendment) Bill, and to request you to kindly return it early to this office, with your approval.

I have the honour to be,
Sir,
Your most obedient servant,

B.R. Ramakrishnaya
SECRETARY
to the Committee.

PR/7.

Sir,
I am returning herewith
the bill duly signed by me
Yours Sincerely
15th May 1942 Mohammed Abbas Khan

MYSORE DEBT CONCILIATION (AMENDMENT) BILL.

Select Committee Report.

We the members of the Select Committee, to which the Mysore Debt Conciliation (Amendment) Bill was referred, have considered the several clauses of the Bill and have the honour to submit the following report:-

CLAUSE 4.

We recommend that in the proposed Section 4 - A, the words "within the meaning of this Act" and "under this Act" may be omitted as unnecessary and that for the words "such debtor" the word "he" may be substituted.

CLAUSE 5:-

Sub Clause (1).

We recommend that the recovery of the costs provided for in the proviso, now proposed to be added to Section 9, could be included in Section 18(1), which provides for the recovery of sums due under agreements, and we therefore recommend that Clause (5) of the Bill may be recast as follows:-

" 5(1) in Clause (b) of Section 9 of the said Act, the following proviso shall be added before the word "or" at the end of the existing proviso, viz.

'Provided further that if the Board dismisses such application on the failure of the debtor to furnish the particulars required under sub-section (3) of Section 8, the Board may allow against the debtor such costs as it considers reasonable'.

Sub-clause (2) of Clause 5:

"We consider that the period of time prior to the making of an application within which any transfer of property is liable to result in the rejection of the

the application, should be brought into line with the period prescribed in the Mysore Insolvency Act, and we, therefore, recommend that the period of 180 days proposed in sub-clause (2) of Clause 5 may be replaced by a period of 2 years.

We also recommend that fraudulent preferences may be placed in the same position as transfers of property. We therefore recommend that Clause (b) may be recast as follows:-

" (2) Section 9 of the said Act shall be renumbered as sub-section (1) of Section 9 and after the said sub-section, the following sub-section shall be inserted, namely:-

" (2) The Board shall dismiss the application made under sub-section (1) of Section 4, if it is satisfied that the debtor has within two years previous to the date of the application made by him transferred any of his property with intent to defraud, or to give fraudulent preference to, any creditor."

CLAUSE 6:

We consider that there is no right conferred by the Act to make a second application in cases other than those provided for in Section 7 and that therefore Section 9-A is unnecessary. We recommend that Clause 6 be deleted.

CLAUSE 7.

We consider that no compulsion whatever should be imposed upon a secured creditor to accept any amount less than the amount of the principal debt. We therefore recommend that the proposed sub-section (2) of Section

Section 14 may be as follows:-

"(2) Where an agreement is recorded under sub-section (1) and the Board considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement as a fair offer, which the creditor concerned ought reasonably to accept, it may pass an order that the debt to which the offer relates shall be settled in accordance with such offer;

Provided that for the purposes of this Sub-section an offer shall not be considered by the Board to be a fair offer if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description;

Provided further that a refusal by a secured creditor of an offer made by the debtor shall not be considered unreasonable if the offer involves any reduction of the principal."

We, however, consider that in such cases, the right of the creditor should be limited to a right to proceed against the secured property only. We therefore recommend that the proposes sub-section (6) of Section 14 be recast as follows:-

"(6) When a secured creditor does not agree to the settlement under sub-section (1) and in cases ~~Reasonable~~ governed by sub-section (2), such refusal is not considered unfair by the Board when passing an order, such settlement or order shall limit his rights to proceed against the secured property only."

Contd....

CLAUSE 9.

Where money is deposited by a debtor with the Deputy Commissioner, we consider that proper security should be taken where claimants are under any legal disability, and that in case of all doubtful claims, a decision of a Civil Court should be insisted upon. We therefore recommend that sub-section (2) of the proposed new Section 18-B may be recast as follows:-

> *" 18-B(2):- The Deputy Commissioner shall cause a notice of such deposit to be served on every person, who, he has reason to believe, claims or is entitled to it, and may pay the amount thereof to any person appearing to him to be entitled to it subject to the taking of proper security where claimants are under any legal disability and shall, in all doubtful claims, retain it pending the decision of a Civil Court as to the person entitled to it."*

In the proposal set out under sub clause (1) of clause 5, we recommend that Sub-Section (1) of Section 18 may be amended as follows:

> *" 18(1):- If a debtor defaults in paying any amount awarded as costs under the second proviso to Clause (b) of sub-section (1) of Section 9, or any amount due in accordance with the terms of an agreement registered under Sub-section (3) of Section 14, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within 90 days from the date of default accompanied by a certificate from the Board regarding the amount due."*

Sub-section (3) of Section 14 exempts the Chairman of a Board from appearing before the registering officer in connection with the registration of agreements under this Act. But neither the other members of the Board,

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who may have signed the agreement nor the debtor and the creditors who are parties thereto, are so exempted. As difficulties are stated to have been experienced in securing the presence of the parties within the period of 30 days mentioned in Section 14 whereby the time and trouble taken by the Board in effecting the agreement are wasted, we recommend that the attendance of the parties to the agreement before the registering officer may be dispensed with. This will ensure the registration of agreement within the time limit of 30 days. We therefore recommend that sub-section (4) of Section 14 (as renumbered) of the Act may be amended as follows:-

> "8(a) Notwithstanding anything contained in the Mysore Registration Act, 1908, it shall not be necessary for the Chairman or any member of the Board or any party, who has signed or otherwise authenticated the agreement referred to in sub-section (1), or the order made under sub-section (2), to appear in person or by agent at any registration office in any proceeding connected with the registration of such agreement, or to sign as provided in Section 58 of that Act.
>
> " (b). The registering officer to whom any such agreement is sent for registration may, if he thinks fit, refer to the Chairman of the Board or to any other person for information respecting the same, and on being satisfied of the execution thereof, shall register the agreement."

Consequential upon the amendments to Section 14, we recommend that in sub-section (8) of Section 19, for the words, figures and brackets "sub-section (2) of -- Section 14", the words, figures and brackets "Sub-section (8) of Section 14" be substituted.

As we consider that the Bill has been altered so as to require re-publication, we recommend that the bill as amended may be re-published.

As required by the Mysore Legislative Rules, the Mysore Debt Conciliation (Amendment) Bill has been published in the Official Gazette, both in English and in Kannada on the 27th November 1941.

Mohammed Akbar Khan

MYSORE DEBT CONCILIATION (AMENDMENT) BILL.

Select Committee Report.

We the members of the Select Committee, to which the Mysore Debt Conciliation (Amendment) Bill was referred, have considered the several clauses of the Bill and have the honour to submit the following report:-

CLAUSE 4.

We recommend that in the proposed Section 4 - A, the words "within the meaning of this Act" and "under this Act" may be omitted as unnecessary and that for the words "such debtor" the word "he" may be substituted.

CLAUSE 5:-

Sub Clause (1).

We recommend that the recovery of the costs provided for in the proviso, now proposed to be added to Section 9, could be included in Section 18(1), which provides for the recovery of sums due under agreements, and we therefore recommend that Clause (5) of the Bill may be recast as follows:-

" 5(1) in Clause (b) of Section 9 of the said Act, the following proviso shall be added before the word "or" at the end of the existing proviso, viz.

'Provided further that if the Board dismisses such application on the failure of the debtor to furnish the particulars required under sub-section (2) of Section 8, the Board may allow against the debtor such costs as it considers reasonable'.

Sub-clause (2) of Clause 5:

"We consider that the period of time prior to the making of an application within which any transfer of property is liable to result in the rejection of the

the application, should be brought into line with the period prescribed in the Mysore Insolvency Act, and we, therefore, recommend that the period of 180 days proposed in sub-clause (2) of Clause 5 may be replaced by a period of 2 years.

We also recommend that fraudulent preferences may be placed in the same position as transfers of property. We therefore recommend that Clause (b) may be recast as follows:-

" (2) Section 9 of the said Act shall be renumbered as sub-section (1) of Section 9 and after the said sub-section, the following sub-section shall be inserted, namely:-

" 9 (2) The Board shall dismiss the application made under sub-section (1) of Section 4, if it is satisfied that the debtor has within two years previous to the date of the application made by him transferred any of his property with intent to defraud, or to give fraudulent preference to, any creditor."

CLAUSE 6:

We consider that there is no right conferred by the Act to make a second application in cases other than those provided for in Section 7 and that therefore Section 9-A is unnecessary. We recommend that Clause 6 be deleted.

CLAUSE 7.

We consider that no compulsion whatever should be imposed upon a secured creditor to accept any amount less than the amount of the principal debt. We therefore recommend that the proposed sub-section (2) of Section

Section 14 may be as follows:-

"(2) Where an agreement is recorded under sub-section (1) and the Board considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement as a fair offer, which the creditor concerned ought reasonably to accept, it may pass an order that the debt to which the offer relates shall be settled in accordance with such offer;

Provided that for the purposes of this Sub-section an offer shall not be considered by the Board to be a fair offer if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description;

Provided further that a refusal by a secured creditor of an offer made by the debtor shall not be considered unreasonable if the offer involves any reduction of the principal."

We, however, consider that in such cases, the right of the creditor should be limited to a right to proceed against the secured property only. We therefore recommend that the proposed sub-section (6) of Section 14 be recast as follows:-

"(6) When a secured creditor does not agree to the settlement under sub-section (1) and in cases ~~governed~~ governed by sub-section (2), such refusal is not considered unfair by the Board when passing an order, such settlement or order shall limit his rights to proceed against the ~~secured~~ secured property only."

Contd....

CLAUSE 9.

Where money is deposited by a debtor with the Deputy Commissioner, we consider that proper security should be taken where claimants are under any legal disability, and that in case of all doubtful claims, a decision of a Civil Court should be insisted upon. We therefore recommend that sub-section (2) of the proposed new Section 18-B may be recast as follows:-

" 18-B(2):- The Deputy Commissioner shall cause a notice of such deposit to be served on every person, who, he has reason to believe, claims or is entitled to it, and may pay the amount thereof to any person appearing to him to be entitled to it subject to the taking of proper security where claimants are under any legal disability and shall, in all doubtful claims, retain it pending the decision of a Civil Court as to the person entitled to it."

For the reasons set out under sub clause (1) of clause 5, we recommend that sub section (1) of section 18 may be amended as follows

" 18(1):- If a debtor defaults in paying any amount awarded as costs under the second proviso to Clause (b) of sub-section (1) of Section 9, or any amount due in accordance with the terms of an agreement registered under Sub-section (3) of Section 14, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within 90 days from the date of default accompanied by a certificate from the Board regarding the amount due."

Sub-section (3) of Section 14 exempts the Chairman of a Board from appearing before the registering officer in connection with the registration of agreements under this Act. But neither the other members of the Board,

who

who may have signed the agreement nor the debtor and the creditors who are parties thereto, are so exempted. As difficulties are stated to have been experienced in securing the presence of the parties within the period of 30 days mentioned in Section 14 whereby the time and trouble taken by the Board in effecting the agreement are wasted, we recommend that the attendance of the parties to the agreement before the registering officer may be dispensed with. This will ensure the registration of agreement within the time limit of 30 days. We therefore recommend that sub-section (4) of Section 14 (as renumbered) of the Act may be amended as follows:-

> "8(a) Notwithstanding anything contained in the Mysore Registration Act, 1908, it shall not be necessary for the Chairman or any member of the Board or any party, who has signed or otherwise authenticated the agreement referred to in sub-section (1), or the order made under sub-section (2), to appear in person or by agent at any registration office in any proceeding connected with the registration of such agreement, or to sign as provided in Section 58 of that Act.
>
> (b). The registering officer to whom any such agreement is sent for registration may, if he thinks fit, refer to the Chairman of the Board or to any other person for information respecting the same, and on being satisfied of the execution thereof, shall register the agreement."

Consequential upon the amendments to Section 14, we recommend that in sub-section (8) of Section 19, for the words, figures and brackets "sub-section (2) of -- Section 14", the words, figures and brackets "Sub-section (8) of Section 14" be substituted.

As we consider that the Bill has been altered so as to require re-publication, we recommend that the bill as amended may be re-published.

As required by the Mysore Legislative Rules, the Mysore Debt Conciliation (Amendment) Bill has been published in the Official Gazette, both in English and in Kannada on the 27th November 1941.

Leg. 6.

Returned with compliments, duly approved.

Bangalore,
Dated 15-5-42.

Member, Select Committee.

MYSORE DEBT CONCILIATION (AMENDMENT) BILL.

Select Committee Report.

BNR 5-6-42

We the members of the Select Committee, to which the Mysore Debt Conciliation (Amendment) Bill was referred, have considered the several clauses of the Bill and have the honour to submit the following report:-

CLAUSE 4.

We recommend that in the proposed Section 4 - A, the words "within the meaning of this Act" and "under this Act" may be omitted as unnecessary and that for the words "such debtor" the word "he" may be substituted.

CLAUSE 5:-

Sub Clause (1).

We recommend that the recovery of the costs provided for in the proviso, now proposed to be added to Section 9, could be included in Section 18(1), which provides for the recovery of sums due under agreements, and we therefore recommend that Clause (5) of the Bill may be recast as follows:-

" 5(1) in Clause (b) of Section 9 of the said Act, the following proviso shall be added before the word "or" at the end of the existing proviso, viz.

'Provided further that if the Board dismisses such application on the failure of the debtor to furnish the particulars required under sub-section (8) of Section 8, the Board may allow against the debtor such costs as it considers reasonable'.

Sub-clause (2) of Clause 5:

"We consider that the period of time prior to the making of an application within which any transfer of property is liable to result in the rejection of the

the application, should be brought into line with the period prescribed in the Mysore Insolvency Act, and we, therefore, recommend that the period of 180 days proposed in sub-clause (2) of Clause 5 may be replaced by a period of 2 years.

We also recommend that fraudulent preferences may be placed in the same position as transfers of property. We therefore recommend that Clause (b) may be recast as follows:-

" (2) Section 9 of the said Act shall be renumbered as sub-section (1) of Section 9 and after the said sub-section, the following sub-section shall be inserted, namely:-

" (2) The Board shall dismiss the application made under sub-section (1) of Section 4, if it is satisfied that the debtor has within two years previous to the date of the application made by him transferred any of his property with intent to defraud, or to give fraudulent preference to, any creditor."

CLAUSE 6:

We consider that there is no right conferred by the Act to make a second application in cases other than those provided for in Section 7 and that therefore Section 9-A is unnecessary. We recommend that Clause 6 be deleted.

CLAUSE 7.

We consider that no compulsion whatever should be imposed upon a secured creditor to accept any amount less than the amount of the principal debt. We therefore recommend that the proposed sub-section (2) of Sec-

Section 14 may be as follows:-

"(2) Where an agreement is recorded under sub-section (1) and the Board considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement as a fair offer, which the creditor concerned ought reasonably to accept, it may pass an order that the debt to which the offer relates shall be settled in accordance with such offer;

Provided that for the purposes of this Sub-section an offer shall not be considered by the Board to be a fair offer if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description;

Provided further that a refusal by a secured creditor of an offer made by the debtor shall not be considered unreasonable if the offer involves any reduction of the principal."

We, however, consider that in such cases, the right of the creditor should be limited to a right to proceed against the secured property only. We therefore recommend that the proposes sub-section (6) of Section 14 be recast as follows:-

"(6) When a secured creditor does not agree to the settlement under sub-section (1) and in cases ~~Government~~ governed by sub-section (2), such refusal is not considered unfair by the Board when passing an order, such settlement or order shall limit his rights to proceed against the ~~secured~~ Secured property only."

Where money is deposited by a debtor with the Deputy Commissioner, we consider that proper security should be taken where claimants are under any legal disability, and that in the case of all doubtful claims, a decision of a Civil Court should be insisted upon. We therefore recommend that sub-section (2) of the proposed new Section 18-B may be recast as follows:-

> *" 18-B(2):- The Deputy Commissioner shall cause a notice of such deposit to be served on every person, who, he has reason to believe, claims or is entitled to it, and may pay the amount thereof to any person appearing to him to be entitled to it subject to the taking of proper security where claimants are under any legal disability and shall, in all doubtful claims, retain it pending the decision of a Civil Court as to the person entitled to it."*

For the reasons set out under sub-clause(1) of clause 5, we recommend that Sub-Section(1) of Section 18 may be amended as follows:-

> *" 18(1):- If a debtor defaults in paying any amount awarded as costs under the second proviso to Clause (b) of sub-section (1) of Section 9, or any amount due in accordance with the terms of an agreement registered under Sub-section (3) of Section 14, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within 90 days from the date of default accompanied by a certificate from the Board regarding the amount due."*

Sub-section (3) of Section 14 exempts the Chairman of a Board from appearing before the registering officer in connection with the registration of agreements under this Act. But neither the other members of the Board,

who

who may have signed the agreement nor the debtor and the creditors who are parties thereto, are so exempted. As difficulties are stated to have been expereinced in securing the presence of the parties with in the period of 30 days mentioned in Section 14 whereby the time and trouble taken by the Board in effecting the agreement are wasted, we recommend that the attendance of the parties to the agreement before the registering officer may be dispensed with. This will ensure the registration of agreement within the time limit of 30 days. We therefore recommend that sub-section (4) of Section 14 (as renumbered) of the Act may be amended as follows:-

> "3(a) Notwithstanding anything contained in the Mysore Registration Act, 1903, it shall not be necessary for the Chairman or any member of the Board or any party, who has signed or otherwise authenticated the agreement referred to in sub-section (1), or the order made under sub-section (2), to appear in person or by agent at any registration office in any proceeding connected with the registration of such agreement, or to sign as provided in Section 58 of that Act.
>
> " (b). The registering officer to whom any such agreement is sent for registration may, if he thinks fit, refer to the Chairman of the Board or to any other person for information respecting the same, and on being satisfied of the execution thereof, shall register the agreement."

Consequential upon the amendments to Section 14, we recommend that in sub-section (3) of Section 19, for the words, figures and brackets "sub-section (2) of -- Section 14", the words, figures and brackets "Sub-section (3) of Section 14" be substituted.

As we consider that the Bill has been altered as to require re-publication, we recommend that the bill as amended may be re-published.

As required by the Mysore Legislative Rules, the Mysore Debt Conciliation (Amendment) Bill has been published in the Official Gazette, both in English and in Kannada on the 27th November 1941.

Signed subject to a minute of dissent

Ujamappa

MYSORE DEBT CONCILLATION (AMENDMENT) BILL.

Minute of Dissent.

While generally approving of the principles of the amendments proposed, I desire to append a note of Dissent regarding clause 6, & clause 7.

It is found in practise that the debtors have been allowed the right of presenting more than one application to have their debts conciliated. The special officer had proposed the addition of section 9-a to prevent frivolous applications being filed before the period fixed in the new section 9-a. The recommendation to delete this clause 6 takes away the right that is being enjoyed by the debtors now. Before taking away such a right we must bear in mind that this act contains no provision for the restoration of dismissed applications on any ground whatever, as in the case of Civil Procedure. In cases where debtors for valid reasons absent themselves have no remedy of restoration and their desire to get their debts concilliated is frustrated. Therefore, it is absolutely essential that the debtors should have atleast a second chance in case their first application is dismissed.

I consider that the recommendation of the Select Committee is half-hearted and halting in the matter of introducing of an element of compulsion in conciliating debts. The Representative Assembly by a over-whelming majority had accepted the element of compulsion in the consiliation of debts. So long as the measure is designed to help the agriculturists to over come his chronic indebtedness the remedy should be such as to meet the present situation successfully. The Special Officer has reported that for want of compulsion, the Boards have not been able to do adequate work and invariably in rural areas the majorit:

majority of the debts ~~are~~ being secured, the Creditors are unwilling to come to any settlement with the debtors. The present distinction sought to be made between secured and unsecured debts should be done away with if the agricultural indebtedness should successfully be tackled. So long as the creditor knows that he is not compelled to agree to a decision he will be reluctant to forego his money. The indebtedness in the rural areas is such a stumbling block and the ryots find it extremly hard to get over their present helpless plight. This has been responsible for their present supreme indifference. ~~for their lives~~ for life. Any economic Ameliorative measure should have this main point in view. Moreover this compulsion is not so severe as in the case of compulsory scaling down of debts as in Madras. Therefore, I am of opinion that the Debt Concillation Boards should have power to compel the Creditors whether secured or unsecured to agree to a fair and reasonable decision and it is only then that this Act will serve the purpose for which it is intended.

U. Gurivaiah
M.L.C
Madras Select
Committee

MYSORE DEBT CONCILIATION (AMENDMENT) BILL.

Select Committee Report.

We the members of the Select Committee to which the Mysore Debt Conciliation (amendment) Bill was referred, have considered the several clauses of the Bill and have the honour to submit the following report:-

Clause 4.

We recommend that in the proposed Section 4 - A, the words "within the meaning of this Act" and "under this Act" may be omitted as unnecessary and that for the words "such debtor" the word "he" may be substituted.

Clause 5.

Sub Clause (1)

We recommend that the recovery of costs provided for in the proviso now proposed to be added to section 9, could be included in section 18(1) which provides for recovery of sums due under agreements, and we therefore recommend that clause (5) of the Bill may be recast as follows:-

"5(1) in Clause (b) of section 9 of the said Act, the following proviso shall be added before the word "or" at the end of the existing proviso, namely:-

"Provided further that if the Board dismisses such application on the failure of the debtor to furnish the particulars required

under sub section (3) of section 8, the Board may allow against the debtor such costs as it considers reasonable."

Sub Clause (2). of clause 5.

We consider that the period of time prior to the making of an application within which any transfer of property is liable to result in the rejection of the application, should be brought into line with the period prescribed in the Mysore Insolvency Act, and we therefore recommend that the period of 180 days proposed in sub clause (2) of Clause 5 may be replaced by a period of two years.

We also recommend that fraudulent preferences may be placed in the same position as transfers of property. We therefore - -

recommend that clause (b) may be recast as follows:-

"(2) Section 9 of the said Act shall be renumbered as sub section (1) of sectio 9 and after the said sub section, the foll ing sub section shall be inserted, namely:

"(2) The Board shall dismiss the app cation made under sub section (1) of secti 4 if it is satisfied that the debtor has within two years previous to the date of t application made by him transferred any of his property with intent to defraud, or to give fraudulent preference to, any creditor

Clause 6.

We consider that there is no right conferred by the Act to make a second appli tion in cases other than those provided for in section 7 and that therefore section 9-A is unnecessary. We recommend that Clause 6 deleted.

Clause 7

We consider that no compulsion whatever should be imposed upon a secured creditor to accept any amount less than the amount of the principal debt. We therefore recommend that the proposed sub-section (2) of section 14 may be as follows:

"(2) Where an agreement is recorded under sub-section (1) and the board considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement as a fair offer which the creditor concerned ought reasonably to accept, it may pass an order that the debt to which the offer relates shall be settled in accordance with such offer;

Provided that for the purposes of this sub-section an offer shall not be considered by the Board to be a fair offer if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description:

Provided further that a refusal by a secured creditor of an offer made by the debtor shall not be considered unreasonable if the offer involves any reduction of the principal."

We however, consider that in such cases, the right of the creditor should be limited to a right to proceed against the secured property only. We therefore

recommend that the proposed sub-section (6) of section 14 be recast as follows:-

"(6) When a secured creditor does not agree to the settlement under sub-section (1) and in cases governed by sub-section (2), such refusal is not considered unfair by the Board when passing an order, such settlement or order shall limit his rights to proceed against the secured property only."

Clause 9.

Where money is deposited by a debtor with the Deputy Commissioner, we consider that proper security should be taken where claimants are under any legal disability, as well as in the case of all doubtful claims, and that a We therefore recommend that sub-section (2) of the proposed new section 18-B may be recast as follows:-

"18-B(2). The Deputy Commissioner shall cause a notice of such deposit to be served on every person, who, he has reason to believe, claims or is entitled to it, and may pay the amount thereof to any person appearing to him to be entitled to it subject to the taking of proper security where claimants are under any legal disability and shall, in all doubtful claims, retain it pending the decision of a Civil

Court as to the person entitled to it."

For the reasons set out under sub-clause (1) of clause 5, we recommend that sub-section (1) of section 18 may be amended as follows:-

> "I8(1). If a debtor defaults in paying any amount awarded as costs under the second proviso to clause (b) of sub-section (1) of section 9, or any amount due in accordance with ther terms of an agreement registered under sub-section (3) of section 14, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within 90 days from the date of default accompanied by a certificate from the Board regarding the amount due."

ub-section (3) of section 14 exempts the Chairman of a Board from appearing before the registering officer in connection with the registration of agreements under this Act. But neither the other members of the Board who may have signed the agreement nor the debtor and the creditors who are parties thereto, are so exempted. As difficulties are stated to have been experienced in securing ~~PERSONS~~ the presence of the parties within the period of 30 days mentioned in section 14 whereby the time and ~~hour~~

trouble taken by the Board in effecting the agreement are wasted, we recommend that the attendance of the parties to the agreement before the registering officer may be dispensed with. This will ensure the registration of agreement within the time limit of 30 days. We therefore recommend that sub-section (4) of section 14 of the Act may be amended as follows:-

" 3(a) Notwithstanding anything contained in the Mysore Registration Act, 1903, it shall not be necessary for the Chairman or any member of the board or any party who has signed or otherwise authenticated the agreement referred to in sub-section (1), to appear in person or by agent at any registration office in any proceeding connected with the registration of such agreement, or to sign as provided in section 58 of that Act.

" (b) The registering officer to whom any such agreement is sent for registration may, if he thinks fit, refer to the chairman of the board or to any other person for information respecting the same, and on being satisfied as of the execution thereof, shall register the agreement."

Consequential upon the amendments to section 14, we recommend that in sub-section (3) of section 19, for the

words, figures and brackets "sub-section (2) of section 14", the words, figures and brackets "(2) sub-section (3) of section 14" be substituted.

As we consider that the Bill has been altered so as to require re-publication, we recommend that the bill as amended may be re-published.

As required by the Mysore Legislative Rules, the Mysore Debt Conciliation (amendment) Bill has been published in the official Gazette both in English and in Kannada on ——

Section

File No.

Serial No.

No. 72 70 Le

ary No. of letter replied to .....

To Notification

General and Revenue Secretariat
R. A. & L. C.
( )

under Standing Order 36 of the Legislative Council Standing Orders, the following report of the Select Committee on the Mysore Dept Conciliation (amendment) Bill ~~with a minute of dissent~~ and the Bill as amended by the Select Committee are published for general information

te of issue 9-6-42

ned by B. K. Rama Krishnaiah

By Order

BKR.

Secretary,
Mysore Legislative Council

List of enclosures Three only

Copied by ....

Examined by .....

To The Compiler Mysore Gazette for publication in part IV of the Gazette dated 11-6-42 and for supply of 250.

No. 727 L.C.....
Ends Three

General and Revenue Secretariat,

Dated Bangalore, 8th June, 1942.

NOTIFICATION.

Under Standing Order 36 of the Legislative Council Standing Orders, the following report of the Select Committee on the Mysore Debt Conciliation (amendment) Bill and the Bill as amended by the Select Committee are published for general information.

By Order,

BNR

Secretary,
Mysore Legislative Council.

To

The Compiler, Mysore Gazette for publication in Part IV of the Gazette dated 11th June 1942 and for supply of 250 spare copies immediately.

Cpm/

MYSORE DEBT CONCILITATION (AMENDMENT) BILL.

Select Committee Report.

We the members of the Select Committee, to which the Mysore Debt Concilitation (Amendment) Bill was referred, have considered the several clauses of the Bill and have the honour to submit the following report:-

CLAUSE 4.

We recommend that in the proposed Section 4 - A, the words "within the meaning of this Act" and "under this Act" may be omitted as unnecessary and that for the words "such debtor" the word "he" may be substituted.

CLAUSE 5:-

Sub Clause (1).

We recommend that the recovery of costs provided for in the proviso now proposed to be added to Section 9, could be included in Section 18(1), which provides for the recovery of sums due under agreements, and we therefore recommend that Clause (5) of the Bill may be recast as follows:-

"5(1) in Clause (b) of Section 9 of the said Act, the following proviso shall be added before the word "or" at the end of the existing proviso, viz.

'Provided further that if the Board dismisses such application on the failure of the debtor to furnish the particulars required under sub-section (3) of Section 8, the Board may allow against the debtor such costs as it considers reasonable.'

Sub-clause (2) of Clause 5:

We consider that the period of time prior to the making of an application within which any transfer of property

property is liable to result in the rejection of the application, should be brought into line with the period prescribed in the Mysore Insolvency Act, and we therefore recommend that the period of 180 days proposed in sub-clause (2) of Clause 5 may be replaced by a period of 2 years.

We also recommend that fraudulent preferences may be placed in the same position as transfers of property. We therefore recommend that Clause (b) may be recast as follows:-

" (2) Section 9 of the said Act shall be renumbered as sub-section (1) of Section 9 and after the said sub-section, the following sub-section shall be inserted, namely:-

" (2) The Board shall dismiss the application made under sub-section (1) of Section 4 if it is satisfied that the debtor has within two years previous to the date of the application made by him transferred any of his property with intent to defraud, or to give fraudulent preference to, any creditor."

CLAUSE 6:

We consider that there is no right conferred by the Act to make a second application in cases other than those provided for in Section 7 and that therefore Section 9-A is unnecessary. We recommend that Clause 6 be deleted.

CLAUSE 7:

We consider that no compulsion whatever should be imposed upon a secured creditor to accept any amount less than the amount of the principal debt. We therefore

recommend

that the proposed sub-section (2) of Section 14 may be as follows:-

"(2) Where an agreement is recorded under sub-section (1) and the Board considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement as a fair offer which the creditor concerned ought reasonably to accept, it may pass an order that the debt to which the offer relates shall be settled in accordance with such offer;

Provided further that a refusal by a secured creditor of an offer made by the debtor shall not be considered unreasonable if the offer involves any reduction of the principal."

provided that for the purpose of this sub section an offer shall not be considered by the Board to be a fair offer if its terms are less favourable than the terms of the amicable settlement relating to debt of the same description.

We, however, consider that in such cases, the right of the creditor should be limited to a right to proceed against the secured property only. We therefore recommend that the proposed sub-section (6) of Section 14 be recast as follows:-

"(6) When a secured creditor does not agree to the settlement under sub-section (1) and in cases governed by sub-section (2), such refusal is not considered unfair by the Board when passing an order, such settlement or order shall limit his rights to proceed against the secured property only."

CLAUSE 9.

Where money is deposited by a debtor with the Deputy Commissioner,

we consider that proper security should be taken where claimants are under any legal disability, and that in the case of all doubtful claims, a decision of a Civil Court should be insisted upon. We therefore recommend that sub-section (2) of the proposed new Section 18-B may be recast as follows:-

"18-B(2):- The Deputy Commissioner shall cause a notice of such deposit to be served on every person, who, he has reason to believe, claims or is entitled to it, and may pay the amount thereof to any person appearing to him to be entitled to it subject to the taking of proper security where claimants are under any legal disability and shall, in all doubtful claims, retain it pending the decision of a Civil Court as to the person entitled to it."

For the reasons set out under sub-clause (1) of clause 5, we recommend that sub-section (1) of section 18 may be amended as follows:-

"18(1):- If a debtor defaults in paying any amount awarded as costs under the second proviso to Clause (b) of sub-section (1) of Section 9, or any amount due in accordance with the terms of an agreement registered under Sub-section (3) of Section 14, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within 90 days from the date of default accompanied by a certificate from the Board regarding the amount due."

Sub-section (3) of Section 14 exempts the Chairman of a Board from appearing before the registering officer in connection with the registration of agreements und

this

this Act. But neither the other members of the Board, who may have signed the agreement nor the debtor and the creditors who are parties thereto, are so exempted. As difficulties are stated to have been experienced in securing the presence of the parties within the period of 30 days mentioned in Section 14 whereby the time and trouble taken by the Board in effecting the agreement are wasted, we recommend that the attendance of the parties to the agreement before the registering officer may be dispensed with. This will ensure the registration of agreement within the time limit of 30 days. We therefore recommend that sub-section (4) of Section 14 (as renumbered) of the Act may be amended as follows:-

> "3(a) Notwithstanding anything contained in the Mysore Registration Act, 1903, it shall not be necessary for the Chairman or any member of the Board or any party, who has signed or otherwise authenticated the agreement referred to in sub-section (1), or the order made under sub-section (2), to appear in person or by agent at any registration office in any proceeding connected with the registration of such agreement, or to sign as provided in Section 58 of that Act.
>
> " (b). The registering officer to whom any such agreement is sent for registration may, if he thinks fit, refer to the Chairman of the Board or to any other person for information respecting the same, and on being satisfied of the execution thereof, shall register the agreement."

Consequential upon the amendments to Section 14, we recommend that in sub-section (3) of Section 19,

for the words, figures and brackets "sub-section (2) of Section 14", the words, figures and brackets "Sub-section (3) of Section 14" be substituted.

As we consider that the Bill has been altered so as to require re-publication, we recommend that the Bill as amended may be re-published.

As required by the Mysore Legislative Rules, the Mysore Debt Conciliation (Amendment) Bill has been published in the Official Gazette, both in English and in Kannada on the 27th November 1941.

(sd) K. V. Anantaraman
(Chairman)

" Hirle N Lakshminarayana

" Mahomed Abbas Khan

" D. S. Mallappa

" M. C. Linge Gowda

" L. S. Raju

" J. Mariappa *

* subject to a minute of dissent

MYSORE DEBT CONCILIATION (AMENDMENT) BILL.

Minute of Dissent.

While generally approving of the principles of the amendments proposed, I desire to append a note of Dissent regarding clause 6 and clause 7.

It is found in practice that the debtors have been allowed the right of presenting more than one application to have their debts conciliated. The Special Officer had proposed the additional of Section 9-a to prevent frivolous applications being filed before the priod fixed in the new Section 9-a. The recommendation to delete Clause 6 takes away the right that is being enjoyed by the debtors now. Before taking away such a right we must bear in mind that this Act contains no provision for the restoration of dismissed applications on any ground whatever, as in the case of Civil Procedure. In cases where debtors for valid reasons absent themselves have no remedy of restoration and their desire to get their debts conciliated is frustrated Therefore, it is absolutely essential that the debtors should have at least a second chance in case their first application is dismissed.

I consider that the recommendation of the Select Committee is half-hearted and halting in the matter of introducing of an element of compulsion in conciliating debts. The Representative Assembly by an overwhelming majority had accepted the element of compulsion in the conciliation debts. So long as the measure is designed to help the agriculturist to overcome his chronic indebtedness the remedy should be such as to meet the

present situation successfully. The Special Officer has reported that for want of compulsion, the Boards have not been able to do adequate work and invariably in rural areas the majority of the debts being secured, the Creditors are unwilling to come to any settlement with the debtors. The present distinction sought to be made between secured and unsecured debts should be done away with if the agricultural indebtedness should successfully be tackled. So long as the creditor knows that he is not compelled to agree to a decision he will be reluctant to forego his money. The indebtedness in the rural areas is such a stumbling block and the ryots find it extremely hard to get over their present helpless plight. This has been responsible for their present supreme indifference to life. Any economic ameliorative measure should have this main point in view. Moreover this compulsion is not so severe as in the case of compulsory scaling down of debts as in Madras. Therefore, I am of opinion that the Debt Conciliation Boards should have power to compel the Creditors, whether secured or unsecured, to agree to a fair and reasonable decision and it is only then that this Act will serve the purpose for which it is intended.

Matter underlined and matter specially indicated type in italics

BILL TO AMEND THE MYSORE DEBT CONCILIATION ACT, -- 1937.

As amended by the Select Committee (omissions are shown in square brackets and additions are shown in italics).

WHEREAS it is expedient to amend the Mysore Debt Conciliation Act, 1937; It is hereby enacted as follows:-

Short Title.

1. This Act may be called the Mysore Debt Conciliation (amendment) Act, 194 .

Amendment of section 2, Act VI of 1937.

2. In clause (e) of section 2 of the Mysore Debt Conciliation Act, 1937, (hereinafter referred to as the said Act), the following words shall be added after the figure "1888", namely:-

"or any liability in respect of maintenance, whether under decree of Court or otherwise,"

Amendment of section 3, Act VI of 1937.

3. In section 3 of the said Act, sub-sections (4) and (5) shall be re-numbered as sub-sections (5) and (6), respectively, and after sub-section (3), the following sub-section shall be inserted, namely:-

"(4) A Board having the prescribed quorum may act notwithstanding any vacancy through death, resignation or removal in the number of its members other than the Chairman."

Insertion of new section 4-A in Act VI of 1937.

4. After section 4 of the said Act, the following section shall be inserted, namely:-

Application for settlement of joint debts.

4-A. If a debtor [within the meaning of this Act] is jointly liable with other persons for a debt [such debt], he may make an application under sub-section (1) of section 4 for relief in respect of his liability in regard to such

debt, and the Board, after consideration of the facts and circumstances of the case may pass such orders as it thinks fit [under this Act] regarding the debt so far as such applicant is concerned and such orders of the Board shall not be questioned in any Civil Court;

Provided that an order of the Board under this sub-section shall not affect the liability of any other person who is jointly liable with the debtor for the debt, but in no case shall the creditor, to whom the debt is due, be entitled to realise more than his dues from the persons jointly liable."

5. [(1) In clause (b) of section 9 of the said Act, the following proviso shall be inserted at the end, namely:-

"Provided further that if the Board dismisses such application on the failure of the debtor to comply with notices under sub-section (3) of section 8, the Board may allow against the debtor such costs as the Board considers reasonable and such costs shallbe recoverable as a revenue demand on application made, within ninety days, by a creditor to whom the same is due."]

"5(1) in clause (b) of section 9 of the said Act, the following proviso shall be added before the word "or" at the end of the existing proviso, namely:-

"Provided further that if the Board dismisses such application on the failure of the debtor to furnish the particulars required under sub-section (3) of section 8, the Board may allow against the debtor such costs as it considers reasonable."

[2] Section 9 of the said Act shall be re-numbered as sub-section (1) of section 9 and after the said sub-

section

sub-section, the following sub-section shall be inserted, namely:-

" (2) The Board shall dismiss the application made under sub-section (1) of section 4 if it is satisfied that the debtor has within 180 days previous to the date of the application made by him transferred any of his property with intent to defraud any creditor."

" (2) Section 9 of the said Act shall be renumbered as sub-section (1) of section 9 and after the said sub-section, the following sub-section shall be inserted, namely:-

"(2) The Board shall dismiss the application made under sub-section (1) of section 4 if it is satisfied th t the debtor has within two years previous to the date of the application made by him transferred any of his property with intent to defraud, or to give fraudulent preference to, any creditor."

6. After section 9 of the said Act, the following section shall be inserted, namely:-

"9-A. If once an application has been made by a debtor and disposed of, no Board shall entertain a second application within two years of the date of disposal of the first application."

6. In section 14 of the said Act,-

(1) the second proviso to sub-section (1) shall be omitted;

"(2) When creditors to whom more than 50 per cent. of the total debt is owing, agree to an amicable settlement with the debtor, the Board, if it considers than an offer made by the debtor for the settlement of any debt not included in the amicable settlement is a fair offer which the creditor concerned ought reasonably to accept, may pass an order than the debt to which the offer relates shall be settled in accordance with such offer:

Provided that for the purpose of this sub-section an offer shall not be considered by the Board to be fair offer if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description;"]

"(2) Where an agreement is recorded under sub-section (1) and the Board considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement as a fair offer, which the creditor concerned ought reasonably to accept, it may pass an order that the debt to which the offer relates shall be settled in accordance with such offer;

Provided that for the purposes of this sub-section an offer shall not be considered by the Board to be a fair offer if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description;

Provided further that a refusal by a secured creditor of an offer made by the debtor shall not be considered unreasonable if the offer involves any reduction of the principal."

(3) in sub-section (3) as re-numbered, after the figure and brackets, "(1)", the following words, figure and brackets shall be inserted, namely:-

"or an order passed under sub-section (2)"; and

(4) the following sub-section shall be inserted at the end, namely:-

["(6) When a secured creditor does not agree to the settlement under sub-section (1) and in cases governed by sub-section (2) such refusal is not considered unfair by the Board when passing an order, such settlement or order shall not affect his rights to proceed against the secured property."]

"(6) When a secured creditor does not agree to the settlement under sub-section (1) and in cases governed by sub-section (2), such refusal is not considered unfair by the Board when passing an order, such settlement or order shall limit his rights to proceed against the secured property only."

(5) For sub-section (4) as re-numbered the following sub-section shall be substituted, namely:-

" 3(a) Notwithstanding anything contained in the Mysore Registration Act, 1903, it shall not be necessary for the Chairman or any member of the Board or any party who has signed or otherwise authenticated the agreement referred to in sub-section (1), or the order made under sub-section (2) to appear in person or by agent at any registration office in any proceeding connected with the registration of such agreement, or to sign as provided in section 58 of that Act.

" (b) The registering officer to whom any such agreement is sent for registration may, if he thinks fit, refer to the Chairman of the Board or to any other person for information respecting the same, and on being satisfied of the execution thereof, shall register the agreement."

[8] 7. After section 14 of the said Act, the following section shall be inserted, namely:-

"14-A. When an agreement or an order registered under sub-section (3) of section 14 relates to a debt which is secured by a mortgage, lien or charge on any immovable property of a debtor, such mortgage, lien or charge shall subsist to the extent of the amount payable to the creditor in respect of such debt in accordance with the terms of the agreement or the order, until such amount has been paid or the property has been sold for the satisfaction of such debt."

Insertion of new sections 18-A to 18-D in Act VI of 1937.

[9] 8. After section 18 of the said Act, the following sections shall be inserted, namely:-

Power to deposit amount of instalment with the Deputy Commissioner.

"18-A. (1) If a creditor refuses to accept any amount tendered to him by his debtor in accordance with the terms of an agreement or order registered under the provisions of this Act, or, if in any case, the debtor is doubtful as to the person entitled to receive such amount, the debtor may apply to the Deputy Commissioner for permission to deposit such amount with him.

(2) An application made under sub-section (1) shall be in writing and shall contain -

(a) a statement of the grounds on which it has been made,

(b) the name of the creditor to whose credit the deposit is to be entered, and

(c) the name of the person to whom payment was last made and of the person now claiming it.

18-B. (1) If it appears to the Deputy Commissioner that the applicant is entitled to make the deposit under section 18-A, he shall receive such deposit and give a receipt therefor.

[(2) The Deputy Commissioner shall cause a notice of such deposit to be served on every person who, he has reason to believe, claims or is entitled to it and may pay the amount thereof to any person appearing to him to be entitled to it, or may retain it pending the decision of a Civil Court as to the person entitled to it.]

"~~18-B~~(2). The Deputy Commissioner shall cause a notice of such deposit to be served on every person, who he has reason to believe, claims or is entitled to it, and may pay the amount thereof to any person appearing to him to be entitled to it subject to the taking of

of proper security where claimants are under any legal disability and shall, in all doubtful claims, retain it pending the decision of a Civil Court as to the person entitled to it."

Debtor to be deemed to have fulfilled terms of agreement.

18-C. A debtor, who has made a deposit under section 18-B shall be deemed to have fulfilled the terms of the agreement or the order,

Bar of suits and other legal proceedings.

18-D. No suit or other legal proceedings shall be instituted against any officer in respect of anything done regarding a deposit under this Act, but nothing in this section shall prevent any person entitled to recover the amount of such deposit from recovering it from any person to whom it has been paid under section 18-B.

[10] 9. In sub-section (1) of section 19 of the said Act, the word "and" at the end of clause (v) shall be omitted and after clause (vi), the following word and clause shall be added, namely:-

"and

(vii) the repaying capacity of the debtor."

10. For sub-section (1) of section 18 of the said Act, the following sub-section shall be substituted, namely:-

"18(1). If a debtor defaults in paying any amount awarded as costs under the second proviso to clause (b) of sub-section (1) of section 9, or any amount due in accordance with the terms of an agreement registered under sub-section (3) of section 14, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within 90 days from the date of default accompanied by a certificat from the Board regarding the amount due."

11. In sub-section (3) of section 19, for the words, figures and brackets of"sub-section (2) of section 14",the words, figures and braokets "sub-section (3) of section 14" shall be substituted.

Proceedings of the Meeting of the Select Committee to consider the Mysore Debt Conciliation (Amendment) Bill, held at the Chambers of the Minister for Finance and Revenue on Thursday, 16th April 1942 at 8-30 a.m.

Present.

Rajamantrapravina
K.V. ANANTARAMAN, B.A. CHAIRMAN

Rajasevaprasakta
B.T. Kesaviengar, B.A.

Mirle N. Lakshminaranappa, Esq., B.A., LL.B.
Khan Bahadur Mohamed Abbas Khan,
M.C. Linge Gowda, Esq.,
D.S. Mallappa, Esq.,
L.S. Raju, Esq., M.A.(Hons), B.L.,
T. Mariappa, Esq., B.A., LL.B.
B.K. Ramakrishnaiya, Esq., M.A., LL.B., (Secy
G.S. Venkataramana Iyer, Esq., B.Sc., M.L.

Mr. T. Mariappa at the outset pointed out that certain amendments to the Bill under consideration, were passed by a large majority in the Representative Assembly and requested that the same be taken up for consideration.

The CHAIRMAN thought that it was not necessary for the whole matter to be gone through once again and stated that it was open to him to bring fresh amendments and raise discussion on them.

Clause 2 was read by the Secretary and was accepted.

Clause 3 was taken into consideration.

It was explained by the Secretary that very often the Boards could not function for 8 or 9 months owing to a vacancy on the Board by one reason or other and there was always much delay in its work; hence the need for the present clause.

After some discussion Mr. T. Mariappa suggested the addition of a provision: "any vacancy through death, resignation or removal need not invalidate the proceedings of any Board."

Mr. L.S. Raju suggested that the addi-

tion of the words "not withstanding anything contained in sub-section 3" at the beginning would do.

This was accepted by the Committee; the clause as amended was:

"Notwithstanding anything contained in subsection 3, a Board having the prescribed quorum may act notwithstanding any vacancy through death, resignation or removal in the number of its members other than the Chairman."

Clause 4 was taken into consideration. It was explained that in the case of joint debts, a debtor ~~with the honest purpose of getting relief~~ might be prevented by the other debtors jointly liable for the debts, ~~from~~ applying to the Board for relief. In some cases it might even happen that some of the debtors might by a private arrangement with the creditor himself, attempt to bring about trouble to any one of the debtors, jointly liable for the debt. It was therefore proposed that in the case of such joint debts, if any one debtor felt hardship, he was given scope for applying to the Board for relief. And if the Board after investigating the facts, find that the applicant was entitled to relief, then to that extent the debtors also automatically get relief, they being liable only for the balance of the amount of the joint debt.

Mr. L.S. Raju agreed that it was quite possible that things might happen as stated above and stated that it was a very good provision.

Mr. T, Mariappa also welcomed the provision.

Mr. Mirle Lakshminaranappa pointed out that the words "within the meaning of this Act" occurring after "If a debtor" at the beginning of the clause, and the words "under this Act" might be deleted as they were unnecessary.

The suggestion was accepted by the Committee.

With the above alteration, clause 4 was unanimously accepted.

Clause 5 was taken into consideration.

Mr. L.S. Raju suggested that the word "or" at the end of the first proviso to clause (b) of section 9 (to delete) He also suggested that the words "to comply with notices under sub-section (3) of section 8" was not correct because sub-section (3) of section 8 never contemplated any notices to be ~~furnished~~ complied with.

The CHAIRMAN referring to the words "on application made," wanted to know to know to whom the application was to be made.

Mr. B.T. Kesaviengar suggested that the portion "on application made within ninety days" should be properly worded.

After some discussion it was decided to revise the clause as follows:-

"If a debtor defaults in paying any amount awarded as costs under clause (b) of sub-section (1) of section 9, or any amount due in accordance with the terms of an agreement registered under sub-section (2) of section 18, such amount shall be recoverable as an arrear of land revenue on the application of the creditors made to the Deputy Commissioner within 90 days from the date of default accompanied by a certificate from the Board regarding the actual amount due."

On the suggestion of Mr. L.S. Raju it was accepted to amend the second proviso to clause (b) of section 9 as follows:-

"Provided further that if the Board dismisses such application on the failure of the debtor to furnish particulars required under sub-section (3) of section 8 the Board may allow against the debtor such costs as it considers reasonable."

Mr. L.S. Raju suggested the addition of the provision: "An application under section 4 may be dismissed by the Board with or without costs at any stage of the proceedings.",

Mr. T. Mariappa suggested that if once an application was dismissed, sufficient scope should be provided for the review of the case, if the

applicant furnishes good grounds, ~~ex~~ say illness or some other reason which in the opinion of the Board is reasonable, for not furnishing/required particulars by reason of which the first application was dismissed. He was of the opinion that since the applicant would be burdened with costs for failure to furnish particulars, it was but right that at least one ~~x~~ opportunity should be given for the review of/the applicant's case, subsequently.

The Chairman did not agree with the suggestion.

Mr. L.S. Raju also opposed the suggestion saying that such provision would unnecessarily encourage the tendency to prolong the case.

The period of 180 days provided in caluse 5(2), previous to which the transfer of property by the applicant could be effected for his application being entertained was considered to be too short.

After some discussion it was decided that the same be fixed at 2 years so as to bring it into uniformity with the Insolvency Act.

Mr. L.S. Raju suggested the addition of the words "or to give fradulent preference to any creditor." at the end of clause 5(2), and the same was accepted.

Clause 6 was taken into consideration. Mr. L.S. Raju remarked that the word "an" was not clear, and wanted ~~xxxxxxxx~~ that the words "disposed of" to be clarified because there were two methods of disposal, rejection

under section 7 or dismissal under section 9. He therefore suggested an alteration of the wording as follows:-

"If once an application has been mad by a debtor and is disposed of otherwise than under section 7, no court shall enter tain a second application within two years of the date of disposal of the first application.", so that even if he failed to pursue the application due to want of diligence, he would get relief.

Mr. T. Mariappa interpreted the wording of the clause as giving scope for a second application.

The Chairman disagreed with the view.

Mr. T. Mariappa stated that there may be a hundred causes for which an application could be dismissed and if the applicant subsequently showed convincing reasons for not furnishing particulars, then it was but right to give him another opportunity.

Mr. L.s. Raju ~~xxxx~~ thought that 9A was not necessary.

Mr. T. Mariappa insisted upon having it.

It was decided ~~xx~~ by a show of hands to drop clause 6.

Clause 7 was taken into consideration.

The Chairman stated that under ~~xhe~~ proposed amendment, the secured creditors also ~~xxxxx~~ would lose a portion of ~~his~~ their money, just as the unsecured creditors and remarked that it was not equitable. He remarked that it was not the intention to do injustice

to any party. If there were people who could go on lending money without any proper security, it was but right that such creditors should lose for not being careful./ He was of the opinion that In order to help the unsecured creditors, the secured creditors could not be compelled to forgo a portion of their amount.

Mr. L. S. Raju also supported the view expressed by the Chairman and added that if that position was accepted then it would conflict with the provisions of Transfer of Property Act and other Security Laws. He therefore objected to the provision.

Mr. T. Mariappa stated that the intention of the Act being to afford relief to the agriculturists, they could not afford to make any distinction between secured and unsecured creditors. He was of the view that unless the unsecured creditors were also compelled to forgo a portion of their money, there could be no worth while relief to the raiyats.

The CHAIRMAN stated that he could not see injustice in Mr. Mariappa's argument, and denied that it was the principle of the Act to afford relief to raiyats by doing injustice to somebody.

Mr. T. Mariappa emphasised that it was the principle underlying the Act. He stated that it was also the intention to

set apart a portion of the property for the benefit of the debtor in the case his entire holdings were hypothecated. Otherwise, he wanted to know how else the agriculturist could be saved. He asserted that holdings of the agriculturist must be given back to him in order that cultivation might not stop.

Mr. L.S. Raju stated that according to Mr. Mariappa's conception, both the secured and unsecured creditors should stand on the same footing. He remarked that Mr. Mariappa evidently wanted to import the principles of the Madras Debt Scaling Down Act, which applied under a different set of circumstances.

The CHAIRMAN stated that Mr. Mariappa could not think of importing fresh principles which were not accepted, by them. As regards the provision under discussion, he stated that it would compel the secured creditors also to accept to lose a portion of their loan, and wanted to know whether there was a parallel provision anywhere else.

Mr. T. Mariappa repeated that since the object was to give relief to the agriculturists, they could not afford to think from the point of view of creditors, either secured or unsecured.

Mr. L.S. Raju reminded that 'Debtors' did not mean only 'Agriculturists'.

Mr. T. Mariappa asserted that it was a measure brought up only to relieve agricultural indebtedness and therefore he

could not help feeling so. He also appealed that discussion in the Committee might be conducted in the light of the opinions expressed in both Houses of legislature.

At this stage (11-20 a.m.) the Committee adjourned to meet again on 27th and 28th April 1942.

Proceedings of the second Meeting of the Select Committee on the Mysore Debt Conciliation (amendment) Bill, held in the Chambers of the Minister for Revenue and Finance on 27th April 1942, at 8 a.m.:-

Present.

Rajamantrapravina
K.V. ANANTARAMAN, B.A. CHAIRMAN

Mirle N. Lakshminaranappa, Esq., B.A., LL.
Khan Bahadur Mohamed Abbas Khan
M.C. Linge Gowda, Esq.,
D.S. Mallappa, Esq.,
L.S. Raju, Esq., M.A.(Hons), B.L.,
T. Mariappa, Esq., B.A., LL.B.,
B.K. Ramakrishnaiya, Esq., M.A., LL.B.(Sec
G.S. Venkataramana Iyer, Esq., B.Sc., M.L.

Discussion on Clause 7 of the Bill was resumed.

Mr. L.S. Raju suggested that the words "When creditors to whom more than 50 per cent of the total debt is owing," be substituted by the words "In cases of settlement under sub-section (1) above", in order to avoid repetition.

Khan Bahadur Mohamed Abbas Khan suggested that the proviso about Co-operative Societies should govern the new sub-section also.

Mr. T. Mariappa was of the opinion that Co-operative Societies also should be brought on the same footing as other creditors.

Referring to sub-clause (6) of Clause 7 Mr.L.S. Raju considered that the words "such refusal is not considered unfa needed some explanation to the effect that "refusal by a secured creditor to relinquish any portion of the principal debt due to him, shall not be regarded as unfair by the Board."

The CHAIRMAN agreed with Mr. Raju
id stated that in determining whether
i offer was a fair one or otherwise, the
secured
creditor should not be compelled to forgo
ay portion of the principal.

Mr. Abbas Khan also supported the vie

Mr. Mirle N. Lakshminaranappa, [redacted] suggest
hat a limit had to be placed on the secur
creditor to proceed against the secured pr
for recovery
rty only/in full satisfaction of all his
the creditor should forgo
aims; so that,/any portion of the loan
could not
ich be realised by the sale of th
curity. In su
case the debtor should not be made per
nally liable for the balance of the amou
stated that it was necessary to make
me adjustments to keep pace with the cha
g times by confining the secured credito
ly to the security and wiping off the
rsonal liability of the debtor for the
balance, if any, not realised by the
sale of the property.

Mr. T. Mariappa again objected to
ny distinction being made between secured
nd unsecured creditors.

The CHAIRMAN stated that notwith
standing all his arguments, they could not
get away from the fact that the secured and
nsecured were two different and distinct
classes of creditors and therefore had to
e dealt with accordingly. He remarked that
Mr. Mariappa had one idea behind his suggestion

and that was that some portion of the property should be taken away from the creditor and given back to the debtor. He ~~invited~~ invited Mr. D.S. Mallappa to express his opinion about this point.

Mr. D.S. Mallappa stated that the Money-lenders' Act prescribed a maximum interest rate of 9 per cent and 12 per cent respectively in the case of secured and unsecured credits. If there was any unconscionable rate of interest charged, it was liable to be scaled down. But so far as the principal amount was concerned, he did not think it right to compel the secured creditor to forgo any portion of his claim.

Mr. Abbas Khan pointed out that the explanation now proposed by Mr. Raju put a restriction upon the discretion of the Board in declaring whether a refusal was fair or unfair. He would leave it to the discretion of the Board itself.

The CHAIRMAN replied that it was no restriction. He was of the opinion that refusa to forgo a portion of his principal ought not to be treated as an unfair refusal.

Mr. T. Mariappa requested that no distinction be made between principal and interest. He stated that the country's debt position was so bad that ~~demanded~~ certain amount of compulsion was urgently called for, in order to relieve rural indebtedness. He also expressed the view that it should be left to the discretion of the Board.

Mr. M.C. Linge Gowda agreed with the view expressed by Mr. L.S. Raju.

Mr. T. Mariappa read the amendment moved by Mr. K. Changalaraya Reddy in the Representative Assembly, to the effect that the principle of compulsion should be introduced in conciliating the debt by making the decision of the Board binding on all the creditors whether they agree to it or not.

After some discussion the following suggestions were accepted:-

2. that refusal by a secured creditor of an offer made by the debtor should not be considered as unreasonable if it involves the reduction of the principal;
3. that a restriction should be placed on the secured creditor to proceed against the secured property only in full settlement of his amount and to relieve the debtor of his personal liability for any balance; (in sub-clause 6)

With the above amendments Clause 7 was accepted.

Clause 8 was read out by the Secretary and accepted.

Clause 9 was read out by the Secretary.

The CHAIRMAN assured that provision would be made in Mysore also on the lines of Madras, for the automatic registration of the

It was suggested by Mr. Mariappa and Mr. Raju that in section 18-B(2) provision be made for safeguarding the interests of minors and lunatics or any person under a legal disability represented by guardians, while payment was made by the Deputy Commissioners.

Mr. Mariappa suggested the addition of the following proviso to the above effect:-

"Provided in the case of minors and lunatics represented by guardians, no payment shall be made without taking proper security from the guardians."

Mr. L.B. Raju suggested the addition of the words "and shall in the case of claimants being minors or lunatics or their claims being not admitted," after the words "and may pay the amount thereof to any person appearing to him to be entitled to it,".

Mr. T. Mariappa suggested that only judicial officers should be appointed as Chairmen of the Boards

The CHAIRMAN remarked that it was only an administrative arrangement and stated that it was difficult to get judicial officers in many places.

After some discussion it was agreed to provide in section 18-B(2) that in the case of minors or lunatics, payment should not be made to their guardians without taking proper security.

With the above amendment, clause 9 was accepted.

Clause 10 was read out by the Secretary and accepted.

The Committee adjourned *sine die* at 9 45 a.m.

WHEREAS it is expedient to amend the Madras Dect Conciliation Act, 1936, for the purpose hereinafter appearing, it is enacted as follows:

Short title

1. This Act may be called the Madras Debt Conciliation (Amendment) Act, 1942.

Amendment of section 14 Madras Act XI of 1936.

2. For sub-section (3) of section 14 of the Madras Debt Conciliation Act, 1936 (Madras Act XI of 1936) the following sub-section shall be substituted, namely:-

"(3)(a) Notwithstanding anything contained in the ~~Indian~~ Registration Act, 1903 ~~1908~~, it shall not be necessary for the Chairman or any member of the board or any party who has signed or otherwise authenticated the agreement referred to in sub-section (1), to appear in person or by agent at any registration office in any proceeding connected with the registration of such agreement, or to sign as provided in section 58 of that Act.

(b) The registering ~~xxx~~ officer to whom any such agreement is sent for registration may, if he thinks fit, refer to t the chairman of the board or to any other person for information respecting the same, and on being satisfied of the execution thereof, shall register the agreement."

STATEMENT OF OBJECTS AND REASONS.

Section 14 of the Madras Debt Conciliation Act, 1936 (Madras Act XI of 1936) provides that where the creditors come to an amicable settlement with the debtor, such settlement should forthwith be reduced to writing in the form of an agreement, and registered under the Indian Registration Act, 1908, within thirty days from the date of the making of the agreement. Upon such registration, the agreement takes ~~xffexi~~ effect as if it were a decree of a

a Civil Court and is executable as such. The chairman of the board is exempted from appearing before the registering officer in connexion with the registration of the agreement (sub-section (3) of section 14 aforesaid read with section 88 of the Registration Act). But neither the other members of the board who may have signed the agreement, nor the debtor and the creditors who are parties thereto, are so exempted. Difficulties are often experienced in securing the presence of the parties before the registering officer within the period of thirty days mentioned in section 14, with the result that the time and trouble taken by the board in effecting the agreement are wasted. The object of this Bill is to dispense with the attendance of the parties to the agreement before the registering officer, and thereby to ensure its registration within the time-limit of thirty days fixed by the Act.

(By order of His Excellency the Governor)

P. APPU NAIR,

Secretary to Government, Legal Department.

No. 7270—*L. C., dated Bangalore, 8th June* 1942.

Under Standing Order 86 of the Legislative Council Standing Orders, the following report of the Select Committee on the Mysore Debt Conciliation (amendment) Bill and the Bill as amended by the Select Committee are published for general information.

By Order,

B. K. RAMAKRISHNAIYA,
Secretary,
Mysore Legislative Council.

MYSORE DEBT CONCILIATION (AMENDMENT) BILL.

Select Committee Report.

We, the members of the Select Committee to which the Mysore Debt Concilitaion (Amendment) Bill was referred, have considered the several clauses of the Bill and have the honour to submit the following report :—

CLAUSE 4.

We recommend that in the proposed Section 4-A, the words " within the meaning of this Act " and " under this Act " may be omitted as unnecessary and that for the words " such debtor " the word " he " may be substituted.

CLAUSE 5.

Sub-Clause (1).

We recommend that the recovery of costs provided for in the proviso now proposed to be added to Section 9, could be included in Section 18 (1) which provides for the recovery of sums due under agreements, and we therefore recommend that Clause (5) of the Bill may be recast as follows :—

" 5 (1) In Clause (b) of Section 9 of the said Act, the following proviso shall be added before the word " or " at the end of the existing proviso, *viz.*,

service which he is required to perform in pursuance of such order or in contravention of Section 5, departs out of the area in which he is registered, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(3) Whoever being the employer of a person required by an order under sub-section (1) of Section 4 to present himself for service does anything calculated to prevent such person from, or to obstruct such person in, complying with the order, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

Sanction for prosecutions.

7. No prosecution for an offence punishable under this Act and no prosecution for an offence punishable under the Mysore Motor Vehicles Act, 1928, committed by a person who is for the time being acting in obedience to an order under sub-section (1) of Section 4 of this Act, shall be instituted without the previous sanction in writing of the Government or of an authority authorised in this behalf by the Government.

Power to make rules.

8. (1) The Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, rules may be made providing for all or any of the following matters, *viz.*,—

(*a*) the form of the register referred to in Section 3, the principles to be followed in selecting names for entry therein, and the details to be recorded therein;

(*b*) the form of any order in writing or notice in writing to be issued under this Act;

(*c*) the payment of persons whose services are requisitioned under this Act for the services rendered.

Repeal and Savings.

9. The Motor Vehicles (Drivers) Emergency Act, 1942 (No. XXI of 1942), is hereby repealed. But any rules made, anything done and any action taken in exercise of any power conferred by or under the said Emergency Act, shall be deemed to have been made, done or taken, in exercise of powers conferred by or under this Act, as if this Act had commenced on the 4th day of April 1942.

'Provided further that if the Board dismisses such application on the failure of the debtor to furnish the particulars required under sub-section (3) of Section 8, the Board may allow against the debtor such costs as it considers reasonable.'

Sub-clause (2) of Clause 5.

We consider that the period of time prior to the making of an application within which any transfer of property is liable to result in the rejection of the application, should be brought into line with the period prescribed in the Mysore Insolvency Act, and we therefore recommend that the period of 180 days proposed in sub-clause (2) of Clause 5 may be replaced by a period of 2 years.

We also recommend that fraudulent preferences may be placed in the same position as transfers of property. We therefore recommend that clause (b) may be recast as follows :—

" (2) Section 9 of the said Act shall be renumbered as sub-section (1) of Section 9 and after the said sub-section, the following sub-section shall be inserted, namely :—

" (2) The Board shall dismiss the application made under sub-section (1) of Section 4 if it is satisfied that the debtor has within two years previous to the date of the application made by him transferred any of his property with intent to defraud, or to give fraudulent preference to, any creditor."

CLAUSE 6.

We consider that there is no right conferred by the Act to make a second application in cases other than those provided for in Section 7 and that therefore Section 9-A is unnecessary. We recommend that Clause 6 be deleted.

CLAUSE 7.

We consider that no compulsion whatever should be imposed upon a secured creditor to accept any amount less than the amount of the principal debt. We therefore recommend that the proposed sub-section (2) of Section 14 may be as follows :—

" (2) Where an agreement is recorded under sub-section (1) and the Board considers that an offer made by

the debtor for the settlement of any debt not included in the amicable settlement as a fair offer which the creditor concerned ought reasonably to accept, it may pass an order that the debt to which the offer relates shall be settled in accordance with such offer:

Provided that for the purposes of this sub-section an offer shall not be considered by the Board to be a fair offer if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description:

Provided further that a refusal by a secured creditor of an offer made by the debtor shall not be considered unreasonable if the offer involves any reduction of the principal."

We, however, consider that in such cases, the right of the creditor should be limited to a right to proceed against the secured property only. We therefore recommend that the proposed sub-section (6) of Section 14 be recast as follows:—

"(6) When a secured creditor does not agree to the settlement under sub-section (1) and in cases governed by sub-section (2), such refusal is not considered unfair by the Board when passing an order, such settlement or order shall limit his rights to proceed against the secured property only."

CLAUSE 9.

Where money is deposited by a debtor with the Deputy Commissioner, we consider that proper security should be taken where claimants are under any legal disability, and that in the case of all doubtful claims, a decision of a Civil Court should be insisted upon. We therefore recommend that sub-section (2) of the proposed new section 18-B may be recast as follows:—

"18-B (2). The Deputy Commissioner shall cause a notice of such deposit to be served on every person, who, he has reason to believe, claims or is entitled to it, and may pay the amount thereof to any person appearing to him to be entitled to it subject to the taking of proper security where claimants are under any legal disability and shall, in all doubtful claims, retain it pending the decision of a Civil Court as to the person entitled to it."

For the reasons set out under sub-clause (1) of clause 5, we recommend that sub-section (1) of section 18 may be amended as follows:—

"18 (1). If a debtor defaults in paying any amount awarded as costs under the second proviso to clause (b) of sub-section (1) of section 9, or any amount due in accordance with the terms of an agreement registered under sub-section (3) of section 14, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within 90 days from the date of default accompanied by a certificate from the Board regarding the amount due."

Sub-section (3) of section 14 exempts the Chairman of a Board from appearing before the registering officer in connection with the registration of agreements under this Act. But neither the other members of the Board, who may have signed the agreement nor the debtor and the creditors who are parties thereto, are so exempted. As difficulties are stated to have been experienced in securing the presence of the parties within the period of 30 days mentioned in section 14 whereby the time and trouble taken by the Board in effecting the agreement are wasted, we recommend that the attendance of the parties to the agreement before the registering officer may be dispensed with. This will ensure the registration of agreement within the time limit of 30 days. We therefore recommend that sub-section (4) of section 14 (as renumbered) of the Act may be amended as follows:—

"3 (*a*) Notwithstanding anything contained in the Mysore Registration Act, 1903, it shall not be necessary for the Chairman or any member of the Board or any party, who has signed or otherwise authenticated the agreement referred to in sub-section (1), or the order made under sub-section (2), to appear in person or by agent at any registration office in any proceeding connected with the registration of such agreement, or to sign as provided in section 58 of that Act.

"(*b*) The registering officer to whom any such agreement is sent for registration may, if he thinks fit, refer to the Chairman of the Board or to any other person for information respecting the same, and on being satisfied of the execution thereof, shall register the agreement."

Consequential upon the amendments to section 14, we recommend that in sub-section (3) of section 19, for the words, figures and brackets "sub-section (2) of section 14", the words, figures and brackets "sub-section (3) of section 14" be substituted.

As we consider that the Bill has been altered so as to require re-publication, we recommend that the Bill as amended may be re-published.

As required by the Mysore Legislative Rules, the Mysore Debt Conciliation (Amendment) Bill has been published in the Official Gazette, both in English and in Kannada on the 27th November 1941.

(Sd.) K. V. Anantaraman
(*Chairman*).
" Mirle N. Lakshminaranappa.
" Mahomed Abbas Khan.
" D. S. Mallappa.
" M. C. Linge Gowda.
" L. S. Raju.
" T. Mariappa.*

MYSORE DEBT CONCILIATION (Amendment) BILL.

Minute of Dissent.

While generally approving of the principles of the amendments proposed, I desire to append a note of dissent regarding clause 6 and clause 7.

It is found in practice that the debtors have been allowed the right of presenting more than one application to have their debts conciliated. The Special Officer had proposed the addition of Section 9 (a) to prevent frivolous applications being filed before the period fixed in the new Section 9 (a). The recommendation to delete clause 6 takes away the right that is being enjoyed by the debtors now. Before taking away such a right we must bear in mind that this Act contains no provision for the restoration of dismissed applications on any ground whatever, as in the case of Civil Procedure. In cases where debtors for valid reasons absent themselves have no remedy

*Subject to a minute of dissent.

of restoration and their desire to get their debts conciliated is frustrated. Therefore, it is absolutely essential that the debtors should have at least a second chance in case their first application is dismissed.

I consider that the recommendation of the Select Committee is half-hearted and halting in the matter of introducing of an element of compulsion in conciliating debts. The Representative Assembly by an overwhelming majority had accepted the element of compulsion in the conciliation of debts. So long as the measure is designed to help the agriculturist to overcome his chronic indebtedness the remedy should be such as to meet the present situation successfully. The Special Officer has reported that for want of compulsion, the Boards have not been able to do adequate work and invariably in rural areas the majority of the debts being secured, the creditors are unwilling to come to any settlement with the debtors. The present distinction sought to be made between secured and unsecured debts should be done away with if the agricultural indebtedness should successfully be tackled. So long as the creditor knows that he is not compelled to agree to a decision he will be reluctant to forego his money. The indebtedness in the rural areas is such a stumbling block and the raiyats find it extremely hard to get over their present helpless plight. This has been responsible for their present supreme indifference to life. Any economic ameliorative measure should have this main point in view. Moreover, this compulsion is not so severe as in the case of compulsory scaling down of debts as in Madras. Therefore, I am of opinion that the Debt Conciliation Boards should have power to compel the creditors, whether secured or unsecured, to agree to a fair and reasonable decision and it is only then that this Act will serve the purpose for which it is intended.

BILL TO AMEND THE MYSORE DEBT CONCILIATION ACT, 1937.

As amended by the Select Committee.

[*Ommissions are shown in square brackets and additions are shown in italics.*]

WHEREAS it is expedient to amend the Mysore Debt Conciliation Act, 1937; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Mysore Debt Conciliation (amendment) Act, 194 .

Amendment of section 2, Act VI of 1937.

2. In clause (e) of section 2 of the Mysore Debt Conciliation Act, 1937 (hereinafter referred to as the said Act), the following words shall be added after the figure "1888" namely:—

"or any liability in respect of maintenance, whether under decree of Court or otherwise,"

Amendment of section 3, Act VI of 1937.

3. In section 3 of the said Act, sub-sections (4) and (5) shall be re-numbered as sub-sections (5) and (6), respectively, and after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) A Board having the prescribed quorum may act notwithstanding any vacancy through death, resignation or removal in the number of its members other than the Chairman."

Insertion of new section 4 A in Act VI of 1937.

4. After section 4 of the said Act, the following section shall be inserted, namely:—

Application for settlement of joint debts.

4-A. If a debtor ~~[within the meaning of this Act]~~ is jointly liable with other persons for a debt, ~~[such debtor]~~ *he* may make an application under sub-section (1) of section 4 for relief in respect of his liability in regard to such debt, and the Board, after consideration of the facts and circumstances of the case may pass such orders as it thinks fit ~~[under this Act]~~ regarding the debt so far as such applicant is concerned and such orders of the Board shall not be questioned in any Civil Court:

"Provided that an order of the Board under this sub-section shall not affect the liability of any other person who is jointly liable with the debtor for the debt, but in no case shall the creditor, to whom the debt is due, be

entitled to realise more than his dues from the persons jointly liable."

Amendment of section 9, Act VI of 1937.

~~5.~~ [(1) In clause (*b*) of section 9 of the saidAct, the following proviso shall be inserted at the end, namely :—

" Provided further that if the Board dismisses such application on the failure of the debtor to comply with notices under sub-section (3) of section 8, the Board may allow against the debtor such costs as the Board considers reasonable and such costs shall be recoverable as a revenue demand on application made, within ninety days, by a creditor to whom the same is due."]

" 5 (1) *in clause* (b) *of section 9 of the said Act, the following proviso shall be added before the word "or" at the end of the existing proviso, namely* :—

" *Provided further that if the Board dismisses such application on the failure of the debtor to furnish the particulars required under sub-section* (3) *of section* 8, *the Board may allow against the debtor such costs as it considers reasonable.*"

[(2) Section 9 of the said Act shall be re-numbered as sub-section (1) of section 9 and after the said sub-section, the following sub-section shall be inserted, namely :—

" (2) The Board shall dismiss the application made under sub-section (1) of section 4 if it is satisfied that the debtor has within 180 days previous to the date of the application made by him transferred any of his property with intent to defraud any creditor."]

" (2) *Section 9 of the said Act shall be renumbered as sub-section* (*1*) *of section 9 and after the said sub-section, the following sub-section shall be inserted, namely* :—

" (2) *The Board shall dismiss the application made under sub-section* (*1*) *of section 4 if it is satisfied that the debtor has within two years previous to the date of the application made by him transferred any of his property with intent to defraud, or to give fraudulent preference to, any creditor.*"

[Insertion of new Section 9-A, in Act VI of 1937.]

[6. After section 9 of the said Act, the following section shall be inserted, namely :—

" 9-A. If once an application has been made by a debtor and disposed of, no Board shall entertain a second

application within two years of the date of disposal of the first application."]

Amendment of section 14, Act VI of 1937.

~~[7]~~ 6. In section 14 of the said Act,—

(1) the second proviso to sub-section (1) shall be omitted;

(2) sub-sections (2), (3) and (4) shall be renumbered as sub-sections (3) (4) and (5), respectively, and after sub-section (1) the following sub-section shall be inserted, namely:—

["(2) When creditors to whom more than 50 per cent of the total debt is owing, agree to an amicable settlement with the debtor, the Board, if it considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement is a fair offer which the creditor concerned ought reasonably to accept, may pass an order that the debt to which the offer relates shall be settled in accordance with such offer:

Provided that for the purpose of this sub-section an offer shall not be considered by the Board to be fair offer if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description;"]

"(2) *Where an agreement is recorded under sub-section (1) and the Board considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement as a fair offer which the creditor concerned ought reasonably to accept, it may pass an order that the debt to which the offer relates shall be settled in accordance with such offer*:

Provided that for the purposes of this sub-section an offer shall not be considered by the Board to be a fair offer if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description:

Provided further that a refusal by a secured creditor of an offer made by the debtor shall not be considered unreasonable if the offer involves any reduction of the principal";

(3) in sub-section (3) as re-numbered, after the figure and brackets, "(1)", the following words, figure and brackets shall be inserted, namely:

"or an order passed under sub-section (2)"; and

(4) the following sub-section shall be inserted at the end, namely :—

["(6) When a secured creditor does not agree to the settlement under sub-section (1) and in cases governed by sub-section (2) such refusal is not considered unfair by the Board when passing an order, such settlement or order shall not affect his rights to proceed against the secured property."]

"(6) *When a secured creditor does not agree to the settlement under sub-section (1) and in cases governed by sub-section (2), such refusal is not considered unfair by the Board when passing an order, such settlement or order shall limit his rights to proceed against the secured property only.*"

(5) *For sub-section (4) as re-numbered the following sub-section shall be substituted, namely* :—

"3(a) *Notwithstanding anything contained in the Mysore Registration Act, 1903, it shall not be necessary for the Chairman or any member of the Board or any party who has signed or otherwise authenticated the agreement referred to in sub-section (1), or the order made under sub-section (2) to appear in person or by agent at any registration office in any proceeding connected with the registration of such agreement, or to sign as provided in section 58 of that Act.*

"(b) *The registering officer to whom any such agreement is sent for registration may, if he thinks fit, refer to the Chairman of the Board or to any other person for information respecting the same, and on being satisfied of the execution thereof, shall register the agreement.*"

[8] 7. After section 14 of the said Act, the following section shall be inserted, namely :— Insertion of new section 14-A in Act VI of 1937.

"14-A. When an agreement or an order registered under sub-section (3) of section 14 relates to a debt which is secured by a mortgage, lien or charge on any immovable property of a debtor, such mortgage, lien or charge shall subsist to the extent of the amount payable to the creditor in respect of such debt in accordance with the terms of the agreement or the order, until such amount has been paid or the property has been sold for the satisfaction of such debt."

sertion of w sections -A to 18-D Act VI of 37

8. After section 18 of the said Act, the following sections shall be inserted, namely :—

"18-A. (1) If a creditor refuses to accept any amount tendered to him by his debtor in accordance with the terms of an agreement or order registered under the provisions of this Act, or if in any case, the debtor is doubtful as to the person entitled to receive such amount, the debtor may apply to the Deputy Commissioner for permission to deposit such amount with him.

Power to deposit amount of instalment with the Deputy Commissioner.

(2) An application made under sub-section (1) shall be in writing and shall contain—

(*a*) a statement of the grounds on which it has been made,

(*b*) the name of the creditor to whose credit the deposit is to be entered, and

(*c*) the name of the person to whom payment was last made and of the person now claiming it.

18-B. (1) If it appears to the Deputy Commissioner that the applicant is entitled to make the deposit under section 18-A, he shall receive such deposit and give a receipt therefor.

[(2) The Deputy Commissioner shall cause a notice of such deposit to be served on every person who, he has reason to believe, claims or is entitled to it and may pay the amount thereof to any person appearing to him to be entitled to it, or may retain it pending the decision of a Civil Court as to the person entitled to it.]

"(2) *The Deputy Commissioner shall cause a notice of such deposit to be served on every person, who, he has reason to believe, claims or is entitled to it, and may pay the amount thereof to any person appearing to him to be entitled to it subject to the taking of proper security where claimants are under any legal disability and shall, in all doubtful claims, retain it pending the decision of a Civil Court as to the person entitled to it.*"

18-C. A debtor who has made a deposit under section 18-B shall be held to have fulfilled the terms of the agreement or the order.

Debtor to be deemed to have fulfilled terms of agreement.

18-D. No suit or other legal proceeding shall be instituted against any officer in respect of anything done regarding a deposit under this Act, but nothing in this section shall prevent any person entitled to recover the amount of such deposit from recovering it from any person to whom it has been paid under section 18-B.

Bar of suits and other legal proceedings.

~~[(10)]~~ *9.* In sub-section (1) of section 19 of the said Act, the word "and" at the end of clause (v) shall be omitted and after clause (vi), the following word and clause shall be added, namely :—

"and

(vii) the repaying capacity of the debtor."

10. For sub-section (1) of section 18 of the said Act, the following sub-section shall be substituted namely :—

"18(1). *If a debtor defaults in paying any amount awarded as costs under the second proviso to clause (b) of sub-section* (1) *of section* 9, *or any amount due in accordance with the terms of an agreement registered under sub-section* (3) *of section* 14, *such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within* 90 *days from the date of default accompained by a certificate from the Board regarding the amount due.*

Amendment of section 19, Act VI of 1937.

11. *In sub-section* (3) *of section* 19, *for the words, figures and brackets "sub-section* (2) *of section* 14", *the words, figures and brackets "sub-section* (3) *of section* 14" *shall be substituted.*

D. H. Chandrasekharaiya
President, Legislative Council
27/6/42

No. 7271—L. C., dated Bangalore, the 8th June 1942.

Under Standing Order 36 of the Legislative Council Standing Orders, the following report of the Select Committee on the Maintenance Orders (Enforcement) Bill, and the Bill as amended by the Select Committee are published for general information.

By Order,

B. K. RAMAKRISHNAIYA,
Secretary,
Mysore Legislative Council.

Report of the Select Committee on the Maintenance Orders (Enforcement) Bill.

We, the members of the Select Committee to whom the Maintenance Orders (Enforcement) Bill was referred have considered the Bill and suggested the addition of the words 'The Indian States' in the Preamble, and the words 'Protectorates and Indian States' in the definition of "reciprocating territory" so as to make it clear that the facilities created by the Act are available in Mysore for reciprocity with all such Dominions, Protectorates or States.

We approve of the Bill with these small additions. As the Bill has not undergone any material alterations, we do not think it is necessary to republish the Bill in the Gazette.

A. V. Ramanathan (*Chairman*).
Mirle N. Lakshminarayanappa.
O. S. N. Sheriff.
T. Madiah Gowda.
H. V. Narayana Rao.

Mr. Belur Srinivasa Iyengar was not present at the meeting.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

Order No. Legis 6-42-1

Dated, Bangalore, 7th July 1942

Ordered that the accompanying Mysore Dept Conciliation (amendment) Act, 1942,

which received the assent of His Highness the Maharaja, on the 7th day of July 1942, be published as Act No. XXVII of 1942 in the *Mysore Gazette*, for general information.

BPR 7-7-42

General Secretary to Government.
Law Departm

To

The Compiler, *Mysore Gazette*, for publication in Part IV of the Gazette, in English and Kannada and for supply of spare copies in English and Kannada, as per standing orders.

Copy to the Translation Section

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS

THE MAHARAJA OF MYSORE

Order No. Legis. ~~7-42-1~~ ~~6-42-1~~ 6-42-1

Dated, Bangalore, ~~20th~~ July 1942

Ordered that the accompanying Mysore Debt Conciliation (amendment) Act, 1942, which received the assent of His Highness the Maharaja, on the 7th day of July 1942, be published as Act No. ~~XXVII~~ of 1942 in the Mysore Gazette, for general information.

Secretary to Government,
Law Department.

To

The Compiler, Mysore Gazette, for publication in Part IV of the Gazette, in English and Kannada and for supply of spare copies in English and Kannada, as per standing orders.

service which he is required to perform in pursuance of such order or in contravention of Section 5, departs out of the area in which he is registered, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(3) Whoever being the employer of a person required by an order under sub-section (1) of Section 4 to present himself for service does anything calculated to prevent such person from, or to obstruct such person in, complying with the order, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

Sanction for prosecutions.

7. No prosecution for an offence punishable under this Act and no prosecution for an offence punishable under the Mysore Motor Vehicles Act, 1928, committed by a person who is for the time being acting in obedience to an order under sub-section (1) of Section 4 of this Act, shall be instituted without the previous sanction in writing of the Government or of an authority authorised in this behalf by the Government.

Power to make rules.

8. (1) The Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, rules may be made providing for all or any of the following matters, *viz.*,—

(*a*) the form of the register referred to in Section 3, the principles to be followed in selecting names for entry therein, and the details to be recorded therein;

(*b*) the form of any order in writing or notice in writing to be issued under this Act;

(*c*) the payment of persons whose services are requisitioned under this Act for the services rendered.

Repeal and Savings.

9. The Motor Vehicles (Drivers) Emergency Act, 1942 (No. XXI of 1942), is hereby repealed. But any rules made, anything done and any action taken in exercise of any power conferred by or under the said Emergency Act, shall be deemed to have been made, done or taken, in exercise of powers conferred by or under this Act, as if

No. 7270—*L. C., dated Bangalore, 8th June* 1942.

Under Standing Order 86 of the Legislative Council Standing Orders, the following report of the Select Committee on the Mysore Debt Conciliation (amendment) Bill and the Bill as amended by the Select Committee are published for general information.

By Order,

B. K. RAMAKRISHNAIYA,
Secretary,
Mysore Legislative Council.

MYSORE DEBT CONCILIATION (AMENDMENT) BILL.

Select Committee Report.

We, the members of the Select Committee to which the Mysore Debt Concilitaion (Amendment) Bill was referred, have considered the several clauses of the Bill and have the honour to submit the following report :—

CLAUSE 4.

We recommend that in the proposed Section 4-A, the words " within the meaning of this Act " and " under this Act " may be omitted as unnecessary and that for the words " such debtor " the word " he " may be substituted.

CLAUSE 5.

Sub-Clause (1).

We recommend that the recovery of costs provided for in the proviso now proposed to be added to Section 9, could be included in Section 18 (1) which provides for the recovery of sums due under agreements, and we therefore recommend that Clause (5) of the Bill may be recast as follows :—

" 5 (1) In Clause (b) of Section 9 of the said Act, the following proviso shall be added before the word " or " at the end of the existing proviso, *viz.*,

'Provided further that if the Board dismisses such application on the failure of the debtor to furnish the particulars required under sub-section (3) of Section 8, the Board may allow against the debtor such costs as it considers reasonable.'

Sub-clause (2) of Clause 5.

We consider that the period of time prior to the making of an application within which any transfer of property is liable to result in the rejection of the application, should be brought into line with the period prescribed in the Mysore Insolvency Act, and we therefore recommend that the period of 180 days proposed in sub-clause (2) of Clause 5 may be replaced by a period of 2 years.

We also recommend that fraudulent preferences may be placed in the same position as transfers of property. We therefore recommend that clause (b) may be recast as follows :—

" (2) Section 9 of the said Act shall be renumbered as sub-section (1) of Section 9 and after the said sub-section, the following sub-section shall be inserted, namely :—

" (2) The Board shall dismiss the application made under sub-section (1) of Section 4 if it is satisfied that the debtor has within two years previous to the date of the application made by him transferred any of his property with intent to defraud, or to give fraudulent preference to, any creditor."

CLAUSE 6.

We consider that there is no right conferred by the Act to make a second application in cases other than those provided for in Section 7 and that therefore Section 9-A is unnecessary. We recommend that Clause 6 be deleted.

CLAUSE 7.

We consider that no compulsion whatever should be imposed upon a secured creditor to accept any amount less than the amount of the principal debt. We therefore recommend that the proposed sub-section (2) of Section 14 may be as follows :—

" (2) Where an agreement is recorded under sub-section (1) and the Board considers that an offer made by

the debtor for the settlement of any debt not included in the amicable settlement as a fair offer which the creditor concerned ought reasonably to accept, it may pass an order that the debt to which the offer relates shall be settled in accordance with such offer:

Provided that for the purposes of this sub-section an offer shall not be considered by the Board to be a fair offer if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description:

Provided further that a refusal by a secured creditor of an offer made by the debtor shall not be considered unreasonable if the offer involves any reduction of the principal."

We, however, consider that in such cases, the right of the creditor should be limited to a right to proceed against the secured property only. We therefore recommend that the proposed sub-section (6) of Section 14 be recast as follows:—

"(6) When a secured creditor does not agree to the settlement under sub-section (1) and in cases governed by sub-section (2), such refusal is not considered unfair by the Board when passing an order, such settlement or order shall limit his rights to proceed against the secured property only."

CLAUSE 9.

Where money is deposited by a debtor with the Deputy Commissioner, we consider that proper security should be taken where claimants are under any legal disability, and that in the case of all doubtful claims, a decision of a Civil Court should be insisted upon. We therefore recommend that sub-section (2) of the proposed new section 18-B may be recast as follows:—

"18-B (2). The Deputy Commissioner shall cause a notice of such deposit to be served on every person, who, he has reason to believe, claims or is entitled to it, and may pay the amount thereof to any person appearing to him to be entitled to it subject to the taking of proper security where claimants are under any legal disability and shall, in all doubtful claims, retain it pending the decision of a Civil Court as to the person entitled to it."

For the reasons set out under sub-clause (1) of clause 5, we recommend that sub-section (1) of section 18 may be amended as follows:—

"18 (1). If a debtor defaults in paying any amount awarded as costs under the second proviso to clause (b) of sub-section (1) of section 9, or any amount due in accordance with the terms of an agreement registered under sub-section (3) of section 14, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within 90 days from the date of default accompanied by a certificate from the Board regarding the amount due."

Sub-section (3) of section 14 exempts the Chairman of a Board from appearing before the registering officer in connection with the registration of agreements under this Act. But neither the other members of the Board, who may have signed the agreement nor the debtor and the creditors who are parties thereto, are so exempted. As difficulties are stated to have been experienced in securing the presence of the parties within the period of 30 days mentioned in section 14 whereby the time and trouble taken by the Board in effecting the agreement are wasted, we recommend that the attendance of the parties to the agreement before the registering officer may be dispensed with. This will ensure the registration of agreement within the time limit of 30 days. We therefore recommend that sub-section (4) of section 14 (as renumbered) of the Act may be amended as follows:—

"3 (*a*) Notwithstanding anything contained in the Mysore Registration Act, 1903, it shall not be necessary for the Chairman or any member of the Board or any party, who has signed or otherwise authenticated the agreement referred to in sub-section (1), or the order made under sub-section (2), to appear in person or by agent at any registration office in any proceeding connected with the registration of such agreement, or to sign as provided in section 58 of that Act.

"(*b*) The registering officer to whom any such agreement is sent for registration may, if he thinks fit, refer to the Chairman of the Board or to any other person for information respecting the same, and on being satisfied of the execution thereof, shall register the agreement."

Consequential upon the amendments to section 14, we recommend that in sub-section (3) of section 19, for the words, figures and brackets "sub-section (2) of section 14", the words, figures and brackets "sub-section (3) of section 14" be substituted.

As we consider that the Bill has been altered so as to require re-publication, we recommend that the Bill as amended may be re-published.

As required by the Mysore Legislative Rules, the Mysore Debt Conciliation (Amendment) Bill has been published in the Official Gazette, both in English and in Kannada on the 27th November 1941.

(Sd.) K. V. Anantaraman
(Chairman).
" Mirle N. Lakshminaranappa.
" Mahomed Abbas Khan.
" D. S. Mallappa.
" M. C. Linge Gowda.
" L. S. Raju.
" T. Mariappa.*

MYSORE DEBT CONCILIATION (Amendment) BILL.

Minute of Dissent.

While generally approving of the principles of the amendments proposed, I desire to append a note of dissent regarding clause 6 and clause 7.

It is found in practice that the debtors have been allowed the right of presenting more than one application to have their debts conciliated. The Special Officer had proposed the addition of Section 9 (a) to prevent frivolous applications being filed before the period fixed in the new Section 9 (a). The recommendation to delete clause 6 takes away the right that is being enjoyed by the debtors now. Before taking away such a right we must bear in mind that this Act contains no provision for the restoration of dismissed applications on any ground whatever, as in the case of Civil Procedure. In cases where debtors for valid reasons absent themselves have no remedy

*Subject to a minute of dissent.

of restoration and their desire to get their debts conciliated is frustrated. Therefore, it is absolutely essential that the debtors should have at least a second chance in case their first application is dismissed.

I consider that the recommendation of the Select Committee is half-hearted and halting in the matter of introducing of an element of compulsion in conciliating debts. The Representative Assembly by an overwhelming majority had accepted the element of compulsion in the conciliation of debts. So long as the measure is designed to help the agriculturist to overcome his chronic indebtedness the remedy should be such as to meet the present situation successfully. The Special Officer has reported that for want of compulsion, the Boards have not been able to do adequate work and invariably in rural areas the majority of the debts being secured, the creditors are unwilling to come to any settlement with the debtors. The present distinction sought to be made between secured and unsecured debts should be done away with if the agricultural indebtedness should successfully be tackled. So long as the creditor knows that he is not compelled to agree to a decision he will be reluctant to forego his money. The indebtedness in the rural areas is such a stumbling block and the raiyats find it extremely hard to get over their present helpless plight. This has been responsible for their present supreme indifference to life. Any economic ameliorative measure should have this main point in view. Moreover, this compulsion is not so severe as in the case of compulsory scaling down of debts as in Madras. Therefore, I am of opinion that the Debt Conciliation Boards should have power to compel the creditors, whether secured or unsecured, to agree to a fair and reasonable decision and it is only then that this Act will serve the purpose for which it is intended.

(Sd.) T. Mariappa.

~~XXVII~~ 46

Act No ~~XXVIII~~ of 1942

Act

~~BILL~~ TO AMEND THE MYSORE DEBT CONCILIATION ACT, 1937.

received the assent of His Highness the Maharaja on the 7th day of July 1942

~~As amended by the Select Committee.~~

[*~~Omissions are shown in square brackets and additions are shown in italics.~~*]

WHEREAS it is expedient to amend the Mysore Debt Conciliation Act, 1937; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Mysore Debt Conciliation (amendment) Act, 194[ ].

Amendment of section 2, Act VI of 1937.

2. In clause (e) of section 2 of the Mysore Debt Conciliation Act, 1937 (hereinafter referred to as the said Act), the following words shall be added after the figure "1888" namely:—

"or any liability in respect of maintenance, whether under decree of Court or otherwise,"

Amendment of section 3, Act VI of 1937.

3. In section 3 of the said Act, sub-sections (4) and (5) shall be re-numbered as sub-sections (5) and (6), respectively, and after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) A Board having the prescribed quorum may act notwithstanding any vacancy through death, resignation or removal in the number of its members other than the Chairman."

Insertion of new section 4-A in Act VI of 1937.

4. After section 4 of the said Act, the following section shall be inserted, namely:—

Application for settlement of joint debts.

4-A. If a debtor [~~within the meaning of this Act~~] is jointly liable with other persons for a debt, [~~such debtor~~] *he* may make an application under sub-section (1) of section 4 for relief in respect of his liability in regard to such debt, and the Board, after consideration of the facts and circumstances of the case may pass such orders as it thinks fit [~~under this Act~~] regarding the debt so far as such applicant is concerned and such orders of the Board shall not be questioned in any Civil Court:

"Provided that an order of the Board under this sub-section shall not affect the liability of any other person who is jointly liable with the debtor for the debt, but in no case shall the creditor, to whom the debt is due, be

entitled to realise more than his dues from the persons jointly liable."

~~5. [~~(1) In clause (*b*) of section 9 of the saidAct, th following proviso shall be inserted at the end, namely :–

" Provided further that if the Board dismisses such application on the failure of the debtor to comply with notices under sub-section (3) of section 8, the Board may allow against the debtor such costs as the Board considers reasonable and such costs shall be recoverable as a revenue demand on application made, within ninety days, by a creditor to whom the same is due."]

" 5 (1) *in clause* (b) *of section 9 of the said Act, the following proviso shall be added before the word "or" at the end of the existing proviso, namely* :—

" *Provided further that if the Board dismisses such application on the failure of the debtor to furnish the particulars required under sub-section (3) of section 8, the Board may allow against the debtor such costs as it considers reasonable.*"

~~[(2)~~ Section 9 of the said Act shall be re-numbered as sub-section (1) of section 9 and after the said sub-section, the following sub-section shall be inserted, namely :—

" (2) The Board shall dismiss the application made under sub-section (1) of section 4 if it is satisfied that the debtor has within 180 days previous to the date of the application made by him transferred any of his property with intent to defraud any creditor."]

" (2) *Section 9 of the said Act shall be renumbered as sub-section (1) of section 9 and after the said sub-section, the following sub-section shall be inserted, namely* :—

" (2) *The Board shall dismiss the application made under sub-section (1) of section 4 if it is satisfied that the debtor has within two years previous to the date of the application made by him transferred any of his property with intent to defraud, or to give fraudulent preference to, any creditor.*"

~~[6. After section 9 of the said Act, the following section shall be inserted, namely :—~~ [Insertion of new Section 9-A, in Act VI of 1937.]

" 9-A. If once an application has been made by a debtor and disposed of, no Board shall entertain a second

application within two years of the date of disposal of the first application."]

Amendment of section 14, Act VI of 1937.

[6]. 6. In section 14 of the said Act,—

(1) the second proviso to sub-section (1) shall be omitted;

(2) sub-sections (2), (3) and (4) shall be renumbered as sub-sections (3) (4) and (5), respectively, and after sub-section (1) the following sub-section shall be inserted, namely:—

~~"(2) When creditors to whom more than 50 per cent of the total debt is owing, agree to an amicable settlement with the debtor, the Board, if it considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement is a fair offer which the creditor concerned ought reasonably to accept, may pass an order that the debt to which the offer relates shall be settled in accordance with such offer:~~

~~Provided that for the purpose of this sub-section an offer shall not be considered by the Board to be fair offer if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description;"]~~

"(2) *Where an agreement is recorded under sub-section (1) and the Board considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement as a fair offer which the creditor concerned ought reasonably to accept, it may pass an order that the debt to which the offer relates shall be settled in accordance with such offer*:

Provided that for the purposes of this sub-section an offer shall not be considered by the Board to be a fair offer if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description:

Provided further that a refusal by a secured creditor of an offer made by the debtor shall not be considered unreasonable if the offer involves any reduction of the principal";

(3) in sub-section (3) as re-numbered, after the figure and brackets, "(1)", the following words, figure and brackets shall be inserted, namely:—

"or an order passed under sub-section (2)"; and

(4) the following sub-section shall be inserted at the end, namely :—

["(6) When a secured creditor does not agree to the settlement under sub-section (1) and in cases governed by sub-section (2) such refusal is not considered unfair by the Board when passing an order, such settlement or order shall not affect his rights to proceed against the secured property."]

" (6) *When a secured creditor does not agree to the settlement under sub-section (1) and in cases governed by sub-section (2), such refusal is not considered unfair by the Board when passing an order, such settlement or order shall limit his rights to proceed against the secured property only.*"

(5) *For sub-section (4) as re-numbered the following sub-section shall be substituted, namely* :—

" 3(a) *Notwithstanding anything contained in the Mysore Registration Act, 1903, it shall not be necessary for the Chairman or any member of the Board or any party who has signed or otherwise authenticated the agreement referred to in sub-section (1), or the order made under sub-section (2) to appear in person or by agent at any registration office in any proceeding connected with the registration of such agreement, or to sign as provided in section 58 of that Act.*

" (b) *The registering officer to whom any such agreement is sent for registration may, if he thinks fit, refer to the Chairman of the Board or to any other person for information respecting the same, and on being satisfied of the execution thereof, shall register the agreement.*"

[8]. 7. After section 14 of the said Act, the following section shall be inserted, namely :— Insertion of new section 14-A in Act VI of 1937.

" 14-A. When an agreement or an order registered under sub-section (3) of section 14 relates to a debt which is secured by a mortgage, lien or charge on any immovable property of a debtor, such mortgage, lien or charge shall subsist to the extent of the amount payable to the creditor in respect of such debt in accordance with the terms of the agreement or the order, until such amount has been paid or the property has been sold for the satisfaction of such debt."

Insertion of new sections 18-A to 18-D in Act VI of 1937.

[9] 8. After section 18 of the said Act, the following sections shall be inserted, namely :—

Power to deposit amount of instalment with the Deputy Commissioner.

"18-A. (1) If a creditor refuses to accept any amount tendered to him by his debtor in accordance with the terms of an agreement or order registered under the provisions of this Act, or if in any case, the debtor is doubtful as to the person entitled to receive such amount, the debtor may apply to the Deputy Commissioner for permission to deposit such amount with him.

(2) An application made under sub-section (1) shall be in writing and shall contain—

(*a*) a statement of the grounds on which it has been made,

(*b*) the name of the creditor to whose credit the deposit is to be entered, and

(*c*) the name of the person to whom payment was last made and of the person now claiming it.

18-B. (1) If it appears to the Deputy Commissioner that the applicant is entitled to make the deposit under section 18-A, he shall receive such deposit and give a receipt therefor.

[~~(2) The Deputy Commissioner shall cause a notice of such deposit to be served on every person who, he has reason to believe, claims or is entitled to it and may pay the amount thereof to any person appearing to him to be entitled to it, or may retain it pending the decision of a Civil Court as to the person entitled to it.~~]

"(2) *The Deputy Commissioner shall cause a notice of such deposit to be served on every person, who, he has reason to believe, claims or is entitled to it, and may pay the amount thereof to any person appearing to him to be entitled to it subject to the taking of proper security where claimants are under any legal disability and shall, in all doubtful claims, retain it pending the decision of a Civil Court as to the person entitled to it.*"

Debtor to be deemed to have fulfilled terms of agreement.

18-C. A debtor who has made a deposit under section 18-B shall be held to have fulfilled the terms of the agreement or the order.

18-D. No suit or other legal proceeding shall be instituted against any officer in respect of anything done regarding a deposit under this Act, but nothing in this section shall prevent any person entitled to recover the amount of such deposit from recovering it from any person to whom it has been paid under section 18-B.

Bar of suits and other legal proceedings.

9. In sub-section (1) of section 19 of the said Act, the word "and" at the end of clause (v) shall be omitted and after clause (vi), the following word and clause shall be added, namely :—

"and

(vii) the repaying capacity of the debtor."

10. For sub-section (1) of section 18 of the said Act, the following sub-section shall be substituted namely :—

"18(1). *If a debtor defaults in paying any amount awarded as costs under the second proviso to clause (b) of sub-section* (1) *of section* 9, *or any amount due in accordance with the terms of an agreement registered under sub-section* (3) *of section* 14, *such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within* 90 *days from the date of default accompained by a certificate from the Board regarding the amount due.*

Amendment of section 19, Act VI of 1937.

11. *In sub-section* (3) *of section* 19, *for the words, figures and brackets "sub-section* (2) *of section* 14", *the words, figures and brackets "sub-section* (3) *of section* 14" *shall be substituted.*

(Sd) N. Madhava Rau,
Dewan

No. 7271—*L. C., dated Bangalore, the* 8*th June* 1942.

Under Standing Order 36 of the Legislative Council Standing Orders, the following report of the Select Committee on the Maintenance Orders (Enforcement) Bill, and the Bill as amended by the Select Committee are published for general information.

By Order,

B. K. RAMAKRISHNAIYA,
Secretary,
Mysore Legislative Council.

Report of the Select Committee on the Maintenance Orders (Enforcement) Bill.

We, the members of the Select Committee to whom the Maintenance Orders (Enforcement) Bill was referred have considered the Bill and suggested the addition of the words 'The Indian States' in the Preamble, and the words 'Protectorates and Indian States' in the definition of "reciprocating territory" so as to make it clear that the facilities created by the Act are available in Mysore for reciprocity with all such Dominions, Protectorates or States.

We approve of the Bill with these small additions. As the Bill has not undergone any material alterations, we do not think it is necessary to republish the Bill in the Gazette.

A. V. Ramanathan (*Chairman*).
Mirle N. Lakshminaranappa.
O. S. N. Sheriff.
T. Madiah Gowda.
H. V. Narayana Rao.

NOTIFICATION.

Order No. Rl. 100—*Legis.* 6-42-1, *dated Bangalore, the* 22*nd July* 1942.

Ordered that the accompanying Mysore Debt Conciliation (amendment) Act, 1942, which received the assent of His Highness the Maharaja, on the 7th day of July 1942, be published as Act No. XXVII of 1942, in the *Mysore Gazette*, for general information.

C. NARAYANASWAMY NAIDU,
Secretary to Government,
Law Department.

ACT No. XXVII OF 1942.

THE MYSORE DEBT CONCILIATION (AMENDMENT) ACT, 1942.

(*Received the assent of His Highness the Maharaja on the seventh day of July* 1942.)

Whereas it is expedient to amend the Mysore Debt Conciliation Act, 1937 ; It is hereby enacted as follows:—

1. This Act may be called the Mysore Debt Conciliation (amendment) Act, 1942. Short title.

2. In clause (e) of section 2 of the Mysore Debt Conciliation Act, 1937 (hereinafter referred to as the said Act), the following words shall be added after the figure "1888" namely:— Amendment of section 2, Act VI of 1937.

"or any liability in respect of maintenance, whether under decree of Court or otherwise,"

3. In section 3 of the said Act, sub-sections (4) and (5) shall be re-numbered as sub-sections (5) and (6), respectively, and after sub-section (3), the following sub-section shall be inserted, namely:— Amendment of section 3, Act VI of 1937.

"(4) A Board having the prescribed quorum may act notwithstanding any vacancy through death, resignation or removal in the number of its members other than

Insertion of new section 4-A in Act VI of 1937

4. After section 4 of the said Act, the following section shall be inserted, namely :—

Application for settlemen of joint debts.

"4-A. If a debtor is jointly liable with other persons for a debt, he may make an application under sub-section (1) of section 4 for relief in respect of his liability in regard to such debt, and the Board, after consideration of the facts and circumstances of the case may pass such orders as it thinks fit regarding the debt so far as such applicant is concerned and such orders of the Board shall not be questioned in any Civil Court :"

" Provided that an order of the Board under this sub section shall not affect the liability of any other person who is jointly liable with the debtor for the debt, but in no case shall the creditor, to whom the debt is due, be entitled to realise more than his dues from the persons jointly liable."

Amendment of section 9, Act VI of 1937.

5. (1) In clause (*b*) of section 9 of the said Act, the following proviso shall be added before the word " or " at the end of the existing proviso, namely :—

" Provided further that if the Board dismisses such application on the failure of the debtor to furnish the particulars required under sub-section (3) of section 8, the Board may allow against the debtor such costs as it considers reasonable."

(2) Section 9 of the said Act shall be renumbered as sub-section (1) of section 9 and after the said sub-section, the following sub-section shall be inserted, namely :—

" (2) The Board shall dismiss the application made under sub-section (1) of section 4 if it is satisfied that the debtor has within two years previous to the date of the first application made by him transferred any of his property with intent to defraud, or to give fraudulent preference to, any creditor."

Amendment of section 14, Act VI of 1937.

6. In section 14 of the said Act,—

(1) the second proviso to sub-section (1) shall be omitted ;

(2) sub-sections (2), (3) and (4) shall be renumbered as sub-sections (3) (4) and (5), respectively, and after sub-section (1) the following sub-section shall be inserted, namely :—

" (2) Where an agreement is recorded under sub-section (1) and the Board considers that an offer made by

the debtor for the settlement of any debt not included in the amicable settlement as a fair offer which the creditor concerned ought reasonably to accept, it may pass an order that the debt to which the offer relates shall be settled in accordance with such offer :

Provided that for the purposes of this sub-section an offer shall not be considered by the Board to be a fair offer if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description :

Provided further that a refusal by a secured creditor of an offer made by the debtor shall not be considered unreasonable if the offer involves any reduction of the principal" ;

(3) in sub-section (3) as renumbered, after the figure and brackets, "(1) ", the following words, figure and brackets shall be inserted, namely : –

"or an order passed under sub-section (2)" ; and

(4) the following sub-section shall be inserted at the end, namely :—

"(6) When a secured creditor does not agree to the settlement under sub-section (1) and in cases governed by sub-section (2), such refusal is not considered unfair by the Board when passing an order, such settlement or order shall limit his rights to proceed against the secured property only."

(5) For sub-section (4) as renumbered the following sub-section shall be substituted namely :—

"3 (a) Notwithstanding anything contained in the Mysore Registration Act, 1903, it shall not be necessary for the Chairman or any member of the Board or any party who has signed or otherwise authenticated the agreement referred to in sub-section (1), or the order made under sub-section (2) to appear in person or by agent at any registration office in any proceeding connected with the registration of such agreement, or to sign as provided in section 58 of that Act.

"(b) The registering officer to whom any such agreement is sent for registration may, if he thinks fit, refer to the Chairman of the Board or to any other person for information respecting the same, and on being satisfied of the execution thereof, shall register the agreement."

Insertion of new section 14-A in Act VI of 1937.

7. After section 14 of the said Act, the following section shall be inserted, namely :—

"14-A. When an agreement or an order registered under sub-section (3) of section 14 relates to a debt which is secured by a mortgage, lien or charge on any immovable property of a debtor, such mortgage, lien or charge shall subsist to the extent of the amount payable to the creditor in respect of such debt in accordance with the terms of the agreement or the order, until such amount has been paid or the property has been sold for the satisfaction of such debt."

Insertion of new sections 18-A to 18-D in Act VI of 1937.

8. After section 18 of the said Act, the following sections shall be inserted, namely :—

Power to deposit amount of instalment with the Deputy Commissioner.

"18-A. (1) If a creditor refuses to accept any amount tendered to him by his debtor in accordance with the terms of an agreement or order registered under the provisions of this Act, or if in any case, the debtor is doubtful as to the person entitled to receive such amount, the debtor may apply to the Deputy Commissioner for permission to deposit such amount with him.

(2) An application made under sub-section (1) shall be in writing and shall contain—

(*a*) a statement of the grounds on which it has been made,

(*b*) the name of the creditor to whose credit the deposit is to be entered, and

(*c*) the name of the person to whom payment was last made and of the person now claiming it.

18-B. (1) If it appears to the Deputy Commissioner that the applicant is entitled to make the deposit under section 18-A, he shall receive such deposit and give a receipt therefor.

"(2) The Deputy Commissioner shall cause a notice of such deposit to be served on every person, who he has reason to believe, claims or is entitled to it, and may pay the amount thereof to any person appearing to him to be entitled to it subject to the taking of proper security where claimants are under any legal disability and shall, in all doubtful claims, retain it pending the decision of a Civil Court as to the person entitled to it."

18-C. A debtor who has made a deposit under section 18-B shall be held to have fulfilled the terms of the agreement or the order.

Debtor to be deemed to have fulfilled terms of agreement.

18-D. No suit or other legal proceeding shall be instituted against any officer in respect of anything done regarding a deposit under this Act, but nothing in this section shall prevent any person entitled to recover the amount of such deposit from recovering it from any person to whom it has been paid under section 18-B."

Bar of suits and other legal proceedings.

9. In sub-section (1) of section 19 of the said Act, the word "and" at the end of clause (v) shall be omitted and after clause (vi), the following word and clause shall be added, namely :—

"and

(vii) the repaying capacity of the debtor."

10. For sub-section (1) of section 18 of the said Act, the following sub-section shall be substituted, namely :—

"18 (1) If a debtor defaults in paying any amount awarded as costs under the second proviso to clause (b) of sub-section (1) of section 9, or any amount due in accordance with the terms of an agreement registered under sub-section (3) of section 14, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within 90 days from the date of default accompanied by a certificate from the Board regarding the amount due.

Amendment of section 19, Act VI of 1937.

11. In sub-section (3) of section 19, for the words, figures and brackets "sub-section (2) of section 14", the words, figures and brackets "sub-section (3) of section 14" shall be substituted.

N. MADHAVA RAU,
Dewan.

Price Re. 0-0-6.

the Superintendent at the Government Press, Bangalore.

DEBT CONCILIATION (Amendment) BILL.

Sir, I beg to move that the Debt Conciliation (Amendment) Bill, as approved by the Select Committee, be taken into consideration.

2. The report is unanimous except for one dissentient in respect of two points. I shall deal with this later.

3. In addition to making certain verbal alterations and corrections, the Select Committee has made some important changes in the Bill. As the report gives in detail the reasons for such changes, I do not propose to dwell on them at - lengthh.

4. In regard to clause 6, the Committee was of opinion that as the Act stands at present, there is no right to make a second application in cases other than those covered by section 7. The Committee has, therefore, recommended that clause 6 of the Bill may be deleted. Mr. Mariappa was of the view that this clause should not be omitted as it took away a right that has been so far - allowed to parties in actual practice. The other members of the Select Committee were of opinion that the Act contained no provision for a second application, except in the cases mentioned in - Section 7, and that there was therefore no question of deprivation of any existing right.

5. In regard to clause 7 the Committee considered the implications of the proposed new provisions in great detail, and came to the conclusion that where a secured creditor was concerned, no compulsion whatever should be imposed upon him to accept any amount less than the principal of his debt. Mr. Mariappa dissented from this view. The Committee after a full discussion -

discussion decided that the provision of clause 14 relating to the settlement of debts, should not be amended in such a way as to prevent a secured creditor from insisting on getting if he can, the entire amount of the principal advanced by him.

6. Members will, no doubt, remember that even when the Debt Conciliation Bill was first introduced in the Legislative Council, reference was made to the question whether conciliation should be voluntary or compulsory, and the opinion was then expressed that the scheme under the Bill should be a voluntary one. No doubt, an element of compulsion is now being introduced in the Bill: but the Select Committee felt that such compulsion should not at present extend to the extent of affecting the principal.

7. In clause 9, the Select Committee has recommended that proper security should be taken by the Deputy Commissioner before paying the amount deposited by a debtor to claimants in cases of doubtful claims.

8. There is only one other amendment, to which I shall refer. In regard to the registration of agreements under the Act, difficulties have been stated to exist in securing the presence of parties, which is, at present, essential to effect such registration. The Select Committee has therefore recommended that the attendance of the parties to the agreement may be dispensed with.

Sir, I move.

Bill to amend the Mysore Debt Conciliation Act,1937.

The CHIEF SECRETARY to GOVERNMENT (Rajasevaprasakta B.T.Kesavaiengar) explained the general principles of the Bill as follows:-

(Here enter the printed statement)

Amendment

Mr. K.CHENGALARAYA REDDY moved that the statement of general principles be amended as below:-

> "That Clause 7 of the Bill be amended for introducing the principle of compulsion in the conciliation of debts by making the decision of the Board binding on all the creditors whether they agree to the same or not."

In moving this he said that there were one or two matters to be explained at some length in this connection. ~~Xhxx~~ This was a matter of direct concern to a large section of the public. In 1934 the Agricultural Distress Relief Committee had calculated that the extent of indebtedness in Mysore was about Rs.35 crores. Indebtedness if at all should have increased and not decreased. No doubt the Law Minister had stated at the recent Co-operative Conference that the extent of indebtedness might be about Rs.30 crores. But the speaker was certain that if an economic enquiry was held at the present time, the indebtedness would be found to be between Rs.45 crores and 50 crores. In other words the average indebtedness would work out at Rs.60 to Rs.65 per head. Taking it that an average family consisted of five members its indebtedness might be taken to be between Rs.300 and Rs.350. The assets of the family would be on the average about 5 acres of land worth about Rs.300. These figures were enough to show the vastness of the problem of indebtedness in the State. It was in view of that the Government had examined the question of debt conciliation in 1935 and passed the Debt Conciliation Act in 1937. To ascertain the effect of its working a Special Officer had been

great detail and with considerable efficiency and submitted a report which was both elaborate and brilliant. Debt Conciliation Boards had worked in six places for over 18 months and yet had not been able to extend substantial relief to the indebted agriculturist. Even though cases involving several lakhs of rupees had come up before them, the Debt Conciliation Boards had conciliated debts amounting to Rs.55,000, the amount payable having been reduced to Rs.35,000. The effect of conciliation was thus only only Rs.20,000. One would easily grant that this sum of Rs.20,000 was nothing compared to the total indebtedness of Rs.45 crores. In this process of conciliation the expenditure incurred by the Government was Rs.4,500. These figures showed what little effect the action taken by Government to solve this vast problem had been secured. The reason why better results were not achieved was that the Boards were not meeting frequently enough. They met only on a few days in the year as explained in the Special Officer's report itself. Another reason for such poor results was that even though a decision or settlement was reached in conciliating a debt no satisfactory machinery had been provided for settling the account. It was worth while noting that the system of conciliating debts was working very efficiently in the Central Provinces. The Debt Conciliation Boards in that Province had been brought into existence only in 1934 or 1935. But in a short time the Government of that Province realised that so long as debt conciliation was placed on a voluntary basis useful results could not be secured and that the element of compulsion was absolutely necessary. For that reason they had introduced a special legislation in 1938. In that connection they stated that the Debt Conciliation Act could never secure

5th day
4th turn
SRR

the object in view unless the parties could be compelled to come to a settlement. Similarly in Madras it was found that compulsion was very necessary in connection with the Madras Agriculturists' Relief Act. The Bombay Government too had enforced the Bombay Agricultural Debt Relief Act in 1938. Similar Boards were actively at work in Cochin also. In all these provinces it was found that even though the Chairman and the members of the Boards exerted to their fullest capacity, in the opinion of the Governments concerned, the extent of time and labour involved in conciliating debts had not been commensurate with the results achieved. So they all came to the conclusion that unless compulsion was provided for there was no use merely organising Conciliation Boards. A similar conclusion was arrived at by the Travancore Government also. So far as Mysore was concerned Boards were organised no doubt but they could not be proud of the results achieved by them because compulsion was not enforced.

The question now for consideration therefore was whether compulsion need be introduced in future at least and if so how far. According to the law already in force an order of conciliation could be passed only if both the parties agreed. Otherwise even sections 19 and 20 could not give any relief to the debtor. According to the amendment proposed by the Government they could compel creditors to accept an award in all cases in which either 50 per cent of the creditors or creditors who had advanced 50 per cent of the total loans in a particular case agreed to conciliation even if other creditors did not agree. Even this would not give sufficient relief. If the Government were particular that some tangible results should be secured they would have to organise at

5th day
4th turn
RNR

least 70 or 80 Boards throughout the State. They should also appoint proper personnel. The question whether judicial officers alone should be Chairmen of the Boards or executive officers should be entrusted with that responsibility was also worthy of special consideration. In either case one point was clear that the element of compulsion must be introduced without delay.

The PRESIDENT asked the member to explain what exactly he meant by saying that the element of compulsion should be introduced.

Mr. K.CHENGALARAYA REDDY replied that what he meant was that Conciliation Boards with satisfactory personnel should be constituted in different parts of the State with judicial officers as Chairmen thereof and that whatever proportion of the debts were decided to be paid paid both the debitors and the creditors should be compelled to accept those ~~xxxxxxxxxxx~~ decisions. He also meant that a satisfactory agency should be created for enforcing the award once given in each case.

The PRESIDENT enquired whether it was the member's idea that even if only one of the creditors agreed all other creditors should be compelled to agree to a particular award.

Mr. M.N.JOIS said that that was what was meant.

Mr. K.CHENGALARAYA REDDY explained that he would suggest that proper evidence should be collected and accounts from all the creditors as well as from the debtors should be secured before the award was given. But once an award was given it should be accepted by all the concerned parties as was being done in the case

6th day
4th turn
SRR

of ~~arbitr~~ arbitrations usually held in the country parts.

The member also explained that if the element of compulsion was agreed to be introduced the Debt Conciliation Act would give place to a properly conceived Debt Relief Act. The principle of conciliation as a means of relief to the heavily indebted raiyat had been accepted and full relief could not be given by having Debt Relief Acts only. Even if the element of compulsion was introduced there was need for introducing other Acts to give further relief.

The speaker was aware that a number of objections might be raised against this amendment. Anticipating only one subh objection he stated that it might be argued that the interests of money-lenders would be prejudiced, that the freedom of contract would be denied to the parties, that credit in general would suffer and persons in need might be unable to raise loans any longer and credit structure itself would crumble, the debtors themselves being inconvenienced more than they might be helped. By way of reply to objections like that he would say that considering the extent of suffering of the poor raiyat from the effects of heavy indebtedness and the extent to which he had been disabled from carrying on agricultural operations due to the effects of indebtedness it looked as though nothing worse was going to happen if no more credit facilities were open to him. As regards freedom of contract he would like to say that if the Government organised some machinery through which they could pay the conciliated amounts to the creditors most of the creditors themselves would not be opposed to an arrangement like that. After all no great principle was going to be sacrificed by introducing compulsion as suggested but even if there was any such thing

it was worth while denying parties freedom of contract if larger interests of the public were going to be secured by doing so. If the effect of working of Debt Conciliation Boards so far could be likened to a drop in the ocean, the effect of the amendment proposed by the Government would perhaps be like two drops. With the amendment now proposed by the member it might be three or four drops. Much more would still remain to be done but for the present one might have reason to rest content with three or four drops rather than with only one. He therefore appealed to the House to accept the amendment.

Mr. T.S.RAJAGOPALA IYENGAR seconded the amendment. He said that with a view to helping the indebted agriculturist the Government had passed the Agriculturists' Relief Act, the Debt Conciliation Act, etc. They had also established Land Mortgage Banks and Co-operative Societies and were giving takavi loans and other loans. Government had proposed certain amendments as stated in the statement of general principles with the idea of giving more relief to the raiyat who was in difficulties. The object of the amendment proposed by Mr. Chengalaraya Reddy was that something still further should be done. Even when the Debt Conciliation Act was first introduced representatives of the people urged that an element of compulsion should be provided for. Government had stated that that would amount to converting the Debt Conciliation Act into a Debt Relief Act or Debt Arbitration Act and that the term "conciliation" would go without meaning if compulsion was introduced because conciliation and compulsion could not go together. But in the amendments mentioned in the statement of general principles the Government themselves granted that unless

there was compulsion in some shape or another no useful results could be achieved. In other words Government had gone back upon their own previous argument. But having recognised the need for compulsion they proposed introducing it only to some little extent. ~~They~~ That would not help the raiyats very much. As mentioned in the Special Officer's Report 620 cases had gone up before Debt Conciliation Boards and conciliation had been effected only in 64 wases. If only compulsion had been provided for, conciliation could have been effected in all the 620 cases. Even now the generous intentions of the Government should be secured compulsion was altogether necessary. It existed in many other provinces as explained by the mover already. And there was every reason to introduce it in Mysore also.

The MINISTER for EDUCATION (Mr. J.Mahomed Imam) observed that even in the Provinces and States mentioned by the mover, compulsion had been provided for only to some extent and not either fully or invariably.

Mr. S.N.M.RAZVI said that the mover and his supporters perhaps meant to suggest that Mysore being a model State should introduce compulsion to the fullest possible extent and give a lead to other Provinces and States.

The House rose for lunch and reassembled at 3-30 P.M.

5th day
6/10.
3RR
4th turn

Mr.S.C. MALLIAH: opposed the amendment. He said that he did not agree with Mr. K.C.R Chengalaraya Reddy that compulsion was the only way of liquidating indebtedness of raiyats. It might have been so if the scheme of debt conciliation had been applied to all parts of the State. But now Government had introduced the scheme only in certain special areas and if in such areas compulsion was introduced, instead of securing the object inview the difficulties of the raiyats would increase manifold. Besides, the examples quoted by the mover of the States and provinces where similar acts had been in force were not parallels to conditions in Mysore. The arrangement in those States and Provinces was an Act of a different nature. The nature of the Government that had enforced the scheme there was also different, namely Congress Governments. It was not necessary to enter into a discussion of the effect of the reforms introduced by the Congress Governments. There were criticisms already in several parts of the country. The policy of those Governments was something like robbing Peter to pay Paul. Nobody had a right to say that creditors who had advanced certain moneys should receive only a part thereof and forgo all the rest. After all creditors had lent their money in good faith. They were entitled to recover all such moneys. If elected representatives came to power in Mysore also and with the co-operation of their electors they wanted to introduce any such scheme they were perfectly at liberty to try the experiment in course of time. But such a state of circumstances did not exist in Mysore at present. He also did not consider that it would be lawful or right or equitable to say that moneys borrowed for bonafide purposes should not be repaid. The Government had done all that they legitimately could. For example, they had defined the maximum rates of interest that could be charged. If the debtor had not money enough

to pay, Government had provided enough concessions for him. It would not be justifiable to seek to give any more relief to debtors. No doubt conciliation was a known process. But then, it must be effected only by mutual agreement. Simple because, the legislature had power to make laws and the Government had power to enforce them, members should not think of doing unreasonable things. Moneylending was a profession with many people just like Government service was a profession to certain people. The legislature must consider how far that profession would be dislocated by amendments of the kind proposed by Mr. K.Chengalaraya Reddy. The object that poor people must be helped while on the verge of ruination was good in itself. But that object was not going to be achieved by amending the law as proposed. Dislocation of the moneylending business and lot of dissatisfaction on the part of creditors all over the State would be the only result of any such attempt.

Mr. BHUPALAM R. CHANDRASEKHARAYYA observed that Mr. K.Chengalaraya Reddy had explained all aspects of his case at sufficient length in the course of his speech. Before listening to that speech the speaker had thought that the amendment sought to deal with debt settlement more than with the debt conciliation. The mover had stated that considerable difficulty had been caused to agriculturists on account of heavy indebtedness and that therefore conciliation boards should be organised and creditors compelled to come to settlement with their debtors. In that connection, he had made very valuable suggestions. Perhaps, he meant that some Co-operative Societies or Banks should take over the responsibility of actually paying the amounts to the creditors on the basis of the awards in the several cases. If that was so, the amendment would go very very far. For securing

5th day
6/10
SRR
4th turn

a big purpose like that it was advisable for Mr. K. Chengalaraya Reddy to bring up a new Bill altogether. In the alternative, if the Government also agreed to the principle of the amendment, they could themselves bring up a consolidated Act at the following session of the Assembly, so that members could merely express their opinions thereon. He was not prepared to say that members would be opposed to such a thing being attempted. It was true that prohibitive rates of interest were being levied by creditors and Government have certainly to put an end to such a state of affairs as soon as possible. But just at present members were not in a position to appreciate all aspects of the amendment before the House. The speaker did not agree with Mr. S.C. Malliah in the views that he had expressed. On these grounds, it would be well if Mr. K. Chengalaraya Reddy took back his present amendment and brought up a fresh bill at the following session.

Mr. S. RAMAPPA was glad that even the Government were anxious like Mr. K. Chengalaraya Reddy, to help the raiyats who were heavily indebted. But, it was clear that the amendment of Mr. K. Chengalaraya Reddy would not secure the object in view. The bill before the House referred to conciliation by mutual understanding. By importing an element of compulsion would alter the very meaning, purpose and nature of the bill because it proceeded on the assumption that settlement by mutual understanding should be effected. Even the amendment already proposed by the Government that if 50 per cent of the creditors agree to conciliate debts due by a particular debtor, the other fifty per cent of creditors should be compelled to come to a similar understanding also, went beyond the regular scope of an Act of this nature and if compulsion was throughout contemplated, the word "conciliation" would

5th day
6/10
4th turn
SRR

go without any meaning.

Secondly, as had been observed by the Education Minister, compulsion had not been enforced in all cases. To whatever extent relief could be given, it was already being given by the Government. That being so, compulsion was not called for. For this reason and pending a study of the results of the amendments already proposed by the mover, he wanted that Mr. K. Chengalaraya Reddy's amendment be not accepted by the House.

V. SHANKARALINGE GOWDA said that he was unable to agree with the views expressed by Mr. S.C. Malliah. He also did not agree with what Mr. Bhupalam Chandrasekharayya had stated inspite of the very intelligent way in which he had put it. He was wholeheartedly in support of Mr. K. Chengalaraya Reddy's amendment. Conciliation Boards were not asking creditors to forgo any part of the principal. All that they exhorted creditors to do was to forgo the interest due on such principal. Secondly, the debtors would be saved expenses like stampage. This was the object also of the debt conciliation scheme. This object was being frustrated by the present system of executive officers such as, Revenue Sub-Division Officers being asked to hold arbitration courts. They rarely stayed in places in rural parts to meet the both the parties. They were not devoting sufficient time to that work and even in the few cases in which they were able to make awards, they were helpless to enforce their own awards, if either of the parties refused to abide by them. It was for this reason that Mr. K. Chengalaraya Reddy wanted to provide that where a certain number of creditors agree to abide by the arbitration, the other creditors should be compelled to do so. It was not the object of the amendment to prejudice the interests of the creditors. The speaker was unable to understand why Mr. Malliah

5th day
6/10
4th turn
SRR

should have requested the mover to withdraw the amendment. The amendment made a bold but unobjectionable and well-meant suggestion and deserved support at the hands of all members. After all, it did not propose that any part of the principle should be forgone by the creditors.

Mr. J. MOHAMED IMAM remarked that there was nothing in the amendment to prevent even that being done.

Mr. SHANKARLINGE GOWDA replied that in that case nobody would support the proposal.

Mr. N. RAMA RAO opposed the amendment. Two of the earlier speakers had already said what he wanted to say, namely that this amendment which sought to introduce an element of compulsion hardly fitted in in a matter of which the very essence was conciliation.

Mr. K. CHENGALARAYA REDDY raised to a point of order. Mr. Rama Rao seemed to object that this question could not be br ught up at all as an amendment. The President had admitted the amendment as being proper and he would like to know whether it would be in order for any member to say that this could not be treated as an amendment.

Mr. PRESIDENT; observed that Mr. RamaRao did not seem to suggest that the amendment should be disallowed. What he wanted to say probably was that the amendment went far beyond the main purpose of the bill, so much so that it was on the verge of being not a proper amendment. Nobody had objected to the amendment as such. But, certain members were only opposing it. They were entitled to do so.

Mr. N. RAMA RAO continuing stated that the amendment was on the verge of amounting to a negation of the principle of the Bill itself. Conciliation was a very large

5th day
6/10
4th turn
SRR

principle. All that Mr. K. Chengalaraya Reddy said about the poverty of the people and their difficulties on account of indebtedness, etc., needed the support of almost the entire House. There was no difference of opinion between the speaker and Mr. K. Chengalaraya Reddy that relief should be given to poor people. But, in trying to give them relief, the House should carefully consider ~~wxx~~ what the effect of its actions would be. If creditors were compelled to forgo their dues, it was the credit facilities open to the debtors that would suffer. Nodoubt, the mover had anticipated that objection but had not succeeded in giving a satisfactory answer to it. Thus the objection remained. The fact of the matter was that the agriculturist would go on requiring money now and then. For example, in connection with the Coffee Marketing Bill, it was found that even the largescale agriculturists were reported to require loans at particular seasons of the year. When big planters and agriculturists stood in need of such accommodation, it went ~~wxx~~ without saying that the poorer agriculturists would not do without adequate credit facilities. Mr. K.Chengalaraya Reddy no doubt had referred to the findings of responsible people in the Central Provinces and some other parts of the country. But Sjt. Deshpande had told the country that agriculturists had been unable to get loans after this law was passed. In Bombay, it was not called Debt Concilliation scheme at all. It was called Debt Relief Act and in that Presidency it was said creditors used too much intelligence and obtained bonds for more than the amounts lent, ~~that~~ they get sale-deeds executed in their favour whilst the transactions involved only mere hypothecation. It was thus clear that no ~~exmdikxmxx~~ creditor was prepared to forgo his hard-earned money. If devices like that were resorted to by the

5th day
6/10
4th turn
SRR

creditors not only would the purpose of the amendment be defeated but the raiyats for whose benefit the amendment was proposed, would be ill-served by it. In short, the amendment would lead to serious consequences.

Another point for consideration was whether compulsion was really called for. Mr. K. Chengalaraya Reddy had made one remark that if the agriculturist could raise no more loans, it was going to be so much the better for him. If as already said, the agriculturist really needed accommodation, it was certainly not good that he should be prevented from getting such accommodation. It would be like denying the patient the benefit of medical treatment. If the raiyat needed loans at all, the legislature and the Government must make cheap credit available to him. Unfortunately, such credit was not available to him now. Generally, most of the indebted raiyats were owners of the agricultural lands. But according to the law of the land, all agricultural lan ultimately was owned by the Government, so that it was also the responsibility of the Government to see that all cultivable lands were actually cultivated. This again amounted to saying that the responsibility was on the Government to see that the raiyat got cheap credit at all seasons under reasonable conditions. When approached from that essential consideration, Government must say whether creditors could be compelled to take over liabilities and forgo the privileges. Personally he felt that it could not be done and should not be done.

The remarks made by some of the previous speakers gave raise to an impression that all creditors were trying to ruin poor, ignorant and innocent raiyats. But in truth, the creditor in most cases was the philanthropist, a great servant and a benefactor of society,

5th day
6/10
4th turn
SRR

fulfilling a great economic purpose. Would it, he asked, be justifiable to say that such a useful limb of the social organisation should be ill-served. The only result of attempting to do such a thing would be denying the help which the House wanted to give to the raiyat.

The speaker had seen one of the reports by the Royal Commission in which they had observed with reference to the question of indebtedness that it was a very big problem. On the one hand the raiyat stood in need of help and on the other, no disservice should be done to the creditor. Without prejudice both to the debtor and the creditor, the Government must see how best the just dues were made recoverable by the creditors. If most of the creditors agreed to conciliation, there would be nothing wrong in compelling the remaining few to follow suit. This exactly was the principle underlying this amendment. But, even on this basis, an amendment like this could not be put in, in a 'conciliation' Act. Even as it stood, the law did not appear to be quite satisfactory to the speaker, because, if in a particular case the creditor was not reasonable and did not agree to abide by the terms of the award the authority giving award was unable to enforce it. Therefore, it might be worthwhile considering the alteration of the law slightly so that in case either 40 per cent of the number of creditors agreed or the amount ~~of~~ agreed to be conciliated was more than 50 per cent of the total involved, then the remaining creditors might be compelled to come to a settlement. This, he thought, would be a better way of achieving the object in view.

Mr. C.S. SUBBA RAO said that he had been intimately connected with the debt conciliation board which was working for about three years now at his place (Madhugiri).

He said that this was a question to be considered with great sense of responsibility. He was aware of a number of cases in which 60 per cent of the creditors had combined to see that petitions from debtors were rejected. The special officer recently appointed by Government was personally aware of all cases like that. The debt relief committees appointed in Madras, Bombay, Travancore, etc., had also reported that similar things were happening in those States and Provinces also. The object of the Government could be secured only by the amendment now proposed by Mr. K. Chengalaraya Reddy. Otherwise any number of petitions might be submitted, but conciliation boards would be powerless to enforce the awards even if they were given. The only result of giving awards which were not enforceable would be to delay disputes in civil courts. He was therefore definitely in favour of the amendment being accepted by the House. There was nothing objectionable in it. All that it suggested was that if the fifty per cent limit now proposed in the Government amendment was taken away and if in the opinion of the board a certain offer was considered reasonable and if the conciliation board came to a decision, then such a decision would be best binding on both the parties. That was a very good object, and if it was not agreed to, the entire scheme of debt conciliation was not going to help many a riculturists in need.

Mr. KHAJI SYED YUSUF also supported the amendment. Those who had supported it had argued that an element of compulsbn would be inconsistent with the scheme of conciliation. But it was a common feature that in every piece of legislation enacted, there was always some means of enforcing the decision. Otherwise no law could be made effective. Compulsion in this connection was only a means of giving effect to the award for the passing of which there was provision so that opposition could not stand. It was then argued that if compulsion was introduced

credit would suffer. Already the raiyat was groaning under heavy debts and unless immediate and effective relief was given, he was sure to snap. If some relief was given forthwith the raiyat could recover his balance and stand on his own legs.

Mr. JAMAL MIAN also supported the amendment.

Mr. C. SUBBANNA NAIK said that the Agriculturists Relief Act had given some relief to indebted agriculturists. The Debt Conciliation Act was intended to give some further relief to ~~him~~ them. But at present Conciliation Boards which could be appointed under the second of the Acts referred to, could make awards, but not enforce them. Consequently it could not give the raiyat that amount of relief which ~~it~~ the Act was intended to give. In malnad particularly, agriculturist debtors were finding that even if they sold away their lands, they ~~may~~ might not be able to discharge all their debts. It was therefore absolutely necessary to devise some effective means whereby debts could be conciliated. An element of compulsion was thus called for. And if it was not provided there was little use in having the Debt Conciliation Act in force at all.

Mr. M. SITHARAMA SASTRY also supported the amendment. But indoing so he brought to notice that in Koppa taluk there were instances of debtors executing fresh documents in favour of their creditors undertaking to pay full ammounts due and then making the creditors agree to the older debts being conciliated. If such clandestine agreements between the creditors and debtors ~~was~~ were made possible, the Conciliation Act could not be of much help to anybody. As a matter of fact debts had not been conciliated effectively even in a single case in the said taluk.

He agreed that by enforcing the proposed amendment cheap credit would no longer be available to the debtors. Once debt due to a particular creditor was conciliated, the debtor naturally could not expect any further loans to be given by that creditor. In this view the Government and the Co-operative Department must together devise means to make cheap credit available to agriculturists.

He did not believe that any special facilities need be created to enable creditors to recover their dues . It was necessary to remember that credit was available not merely because the borrowers needed money, but also because the creditors were willing to lend. The latter would be eager to lend monies to their own best possible advantage. So having lent monies it was the lookout of the money-lenders to find suitable ways to recover them.

Lokasevaniratha Bale Siddalinga Setti opposed the amendment. So long as the creditor had advanced a certain sum of money, he thought that Conciliation Boards had no business to say that only part of that money should be recovered from the debtor. And even if a Conciliation Board gave an award to that effect, it should be open to the creditor, if he was not prepared to accept the award, to fight out his case in a Civil Court. On account of Government making unjust laws like this, needy agriculturists to-day were not able to raise loans as freely as 10 years ago. The number of documents registered in Sub-Registrar's office was steadily going down showing that transactions now were very few. Under the older system the raiyats were able to raise loans as freely as they needed and by merely paying the interest accruing on the loans they could continue to enjoy their lands as accerdited owners. But now on account of certain recent enactments, the raiyats had necessarily to mortgage their lands even for small loans they needed and if they were unable to discharge their loans they naturally had to sell the lands away in order to clear the debts. But even the privilege of raising loans on security of lands would go if the proposed amendment was enforced. In other words the raiyats were not going to be helped by the amendment.

Mr. B.T. KESAVAIENGAR observed that as a result of the discussions which had taken place so far a doubt had arisen whether at all the amendment under discussion would naturally fit in with the relevant Act. It looked to him that the amendment was opposed to the very principle of the Bill to which it related.

Mr. K. CHENGALARAYA REDDY asked whether the Chief Secretary to the Government was giving a ruling.

The PRESIDENT replied in the negative. He explained that the Chief Secretary's point was that the Bill as it stood went as far as it was meant to go and therefore the amendment was quite unnecessary.

Mr. M.N. JOIS pointed out that there was difference of opinion even with regard to the amendment proposed by Government themselves that in case 50% of the creditors agree to conciliation, the remaining 50% also should be compelled to agree.

The PRESIDENT stated that Government had considered all aspects of the case in preparing the Bill. They had no idea of going any further than what was at present proposed. Apart from this Government did not feel it necessary to make any elaborate statement on the question at issue since different shades of opinion had already been presented at sufficient length.

Mr. K. CHENGALARAYA REDDY agreed that the question had been discussed sufficiently. But he wished to reply to certain points which had arisen in the course of the discussion. The first point was whether the amendment would or would not fit in with the law to which it related.

The PRESIDENT suggested that Mr. Chengalaraya Re

might leave the point at that because the President had not ruled it out.

Mr. K. CHENGALARAYA REDDY however said that an objection like that had been raised by more than one member and therefore wanted to say that at that rate even the amendment proposed by Government themselves can be regarded as being opposed to the very principle of the Bill. The Government amendment was to the effect that if 50% of the creditors agree to conciliation, the remaining creditors also could be compelled to do so. If this was permissible, the speaker was unable to understand how his amendment was not equally permissible. The principle was the same in either case. Only the question of the extent to which compulsion might be applied was open to discussion. The question of the scope of the amendment now proposed need not arise at all.

He was equally unable to understand the suggestion of one or two of other members that the amendment was not out of order, but all the same it might be proposed as an independent Bill. After all there was not much in name. So long as it was permissible, the amendment might as well be considered in connection with the present Bill itself.

Other objections against the amendments were that the relations between the creditors and debtors would get strained if Creditors were sought to be compelled to agree to conciliation, that the interests of the debtors would be adversely affected, that credit would no longer be available to needy raiyats etc. Certainly it was not his intention that the interests of the raiyats should be prejudiced nor was it his object that the interests of the creditors should in any way be sacrificed in the interests of debtors. Members might remember that similar unwarranted apprehensions had been expressed when Government first

proposed the Agriculturists Relief Bill, The Debt Conciliation Bill etc. But Government had been wise enough to proceed with those enactments. They would do well to be equally bold in connection with the present measure also.

The speaker was glad to find that the House was generally in favour of the amendment and he was particularly delighted to see that members of the Muslim League Party also seemed to be in favour of the amendment. However if the Government could promise the Assembly that they would not bring up separate law at a following session of the House he need not press the amendment in the meanwhile. But if any such hope could not be held out, he would however have to press the amendment. After all there was nothing drastic that was sought to be provided even under the amendment. In Bengal, for example, an element of compulsion would come in the moment 40% of the creditors agree to conciliation, whereas in Madras the minimum limit proposed was 50% and the law would thus favour the creditors more than in Bengal. But this limit of 50% was not meant to apply for all time. It would have to be brought down to 40% in the near future and later on, by slow degrees, to 30%, 20% and 10% and so on.

Proceeding, he said that no doubt Mr. B.G. KALLIAH seemed to have opposed the amendment in question. The speaker had already stated that even with the amendment the law would not go far enough to help the raiyat, but it would be of no use whatever if the amendment also was not embodied. Members of the Congress party were definitely of opinion that such a law need not remain on the statute book at all. In fact they originally proposed to oppose the Bill itself on that ground, but now Mr. B.G. Kalliah had said that even with the amendment proposed by Government, the Bill would remain without much practical benefit. Thus Mr. Kalliah had in effect, supported Mr. Chengalaraya Reddy's amendment rather than opposing it. The speaker's

The Government had proposed the amendment with a view to help the raiyat. The present amendment was also meant to serve the same purpose. This being so, the members would not be doing the right thing to the raiyats if they oppose either the Government amendment or the speaker's.

The amendment was put to vote at this stage and passed 183 members voting for and 50 against.

Mr. K. SUBBIAH SETTY stated that generally revenue officers were appointed Chairman of Debt Conciliation Boards and suggested that it would be better to appoint officers of the Judicial Department instead. The defect of the present system was that revenue officers would not always have the necessary time to devote for Debt Conciliation work because they had several other things to attend to. If Judicial officers were appointed instead they would post cases for regular hearing and do work in a more thorough manner. . . . . .

The PRESIDENT reminded the member that the Bill did not seek to deal with the composition of the ~~members~~ Board or the qualifications of the members.

Mr. K.SUBBIAH SETTY then stated that once an application was disposed of, the Conciliation Board would not entertain the second application within 2 years to follow. It was therefore necessary that each case was gone into thoroughly and disposed of on merits. Otherwise it was desirable to permit the parties to put in applications for consideration even before the expiry of the 2 year limit now prescribed.

The PRESIDENT observed that these were matters of detail which could be considered at a later stage.

Mr. B.R. PUTTANANJAPPA suggested that some time limit should

should be prescribed within which the revenue department should collect decreed debts though in easy instalments. This omission he said was common to the original Bill as well as to the amending Bill.

The PRESIDENT observed that even this suggestion went beyond the scope of the statement of general principles.

Mr. M.N. JOIS observed that it was well that such things were gone into at this stage so that effective means might be devised for enforcing the award as soon as it was given.

The PRESIDENT wondered whether actual recoveries were so easy when the extent of indebtedness was Rs.35 crores or more.

Mr. M.N. JOIS suggested that there need be no difficulty if the Land Mortgage Bank could advance loans to the extent necessary in each case.

The PRESIDENT ~~said~~ replied that it ~~was~~ would certainly not be practicable for Land Mortgage Banks to advance loans to the extent of Rs.35 crores.

Mr. B. NARAYANASWAMI also urged that judicial officers would make better Chairmen of Conciliation Boards than revenue officers. This suggestion would be particularly appreciated in connection with the proposed amendment of Section 9 of the Act to the effect that the Board would dismiss applications made under Sub-section 1 of Section if they were satisfied that debtors had within 180 days previous to the date of the application made by them transferred any of their properties with intent to defraud creditors. Even the review provided for under Section 19 of the original Act would have to be done with reference to

the judicial standards. This responsibility also could be discharged by judicial officers better than by revenue officers.

The PRESIDENT again reminded the members that these were all details which could not be considered in connection with general principles. The question whether the Chairman of a Conciliation Board should be the judicial or the revenue officer need not arise at all at this stage. He however promised that the suggestion made by the member would be noted for consideration in due course.

Mr. T.S. RAJAGOPALA IYENGAR said that under the proposed amendment to Clause (e) of Section 2 priority was sought to be given to the amounts due to Government and for dues to Co-operative Societies or even liabilities in respect of maintenance whether under decree of a Court or otherwise. He was not in favour of such preference being created.

The PRESIDENT again stated that the entire field of the legislation in question ought not to be covered under the guise of discussion of general principles.

Mr. K. CHENGALARAYA REDDY pointed out that the only object of the members in referring to these points was that while amending the original Act all necessary amendments should be thought of once for all.

The PRESIDENT replied that amendments now proposed by the Government were those which had been effected in similar enactments elsewhere. If members were in favour of suggesting any other amendments, they might as well send up to the Government a memorandum of such amendments so that Government could examine them on merits.

Mr. Bhupalam R. CHANDRASEKHAIAYA then made a general request to the effect that Government be pleased to extend the application of the Debt Conciliation scheme to all parts of the State instead of restricting it to only particular taluks.

At this stage the Bill as amended was put to vote and passed unanimously.

Mr. K. CHENGALARAYA REDDY interjected that the Bill as amended was unanimously passed.

The PRESIDENT stated that the Bill as amended by a majority was unanimously passed.

Mr. A. HANUMANTHIAH observed that as the amendment was passed by two-thirds majority, it was fully effective.

NOTIFICATION.

No. R. L. 964, *dated Bangalore, the 26th November* 1941.

Under the provisions of rule 36 of the Mysore Legislative Rules, 1941, the Dewan has been pleased to order the publication in the Gazette of the accompanying Debt Conciliation (Amendment) Bill, together with the statement of objects and reasons.

By Order,

H. V. NARAYANA RAO,

Secretary to Government, Law Department.

STATEMENT OF OBJECTS AND REASONS OF THE BILL TO AMEND THE DEBT CONCILIATION ACT, 1937.

The scheme of Debt Conciliation was introduced into six taluks with effect from July 1938 and the reports of the working of the scheme showed that the results were not appreciable. Various defects and omissions in the scheme were also brought to the notice of Government and several suggestions for the improvement of the law in the matter were made in the Representative Assembly In those circumstances, Government placed Mr. B. K. Ramakrishnaiya, M.A., LL.B., on special duty to examine the working of the scheme in all its aspects and submit a report indicating the defects, if any, and suggesting the lines on which action might be taken, so that the object of the scheme might be realised in a fuller measure.

The Special Officer submitted an exhaustive report on which Government passed orders in Government Order No. 7219-68—L, R. 323-39-42, dated the 24th April 1941.

With a view to implement the decisions arrived at by Government in the above order, it is proposed to amend the Debt Conciliation Act on the lines indicated in the Bill hereto appended.

Among the amendments proposed, the following are the more important :—

1. Clause 2 of the Bill provides for taking out of the purview of the Act, claims in respect of maintenance.

2. Clauses 5 and 6 of the Bill provide for safeguards against indifference on the part of debtors in prosecuting cases before the Debt Conciliation Boards, against the abuse by unscrupulous debtors of the provisions of section 26 and the right to file successive applications and also against attempts made by debtors to defraud creditors by alienating their properties before applying to the Debt Conciliation Boards for relief.

3. In clause 7 of the Bill, provision is made for strengthening the element of compulsion by providing that when an agreement is arrived at between the debtor and the creditors to whom more than 50 per cent of the debts are due, the Board may pass an order that the other creditors also should accept an offer made by the debtor if in the opinion of the Board such offer is a fair one.

4. In clause 8, a new section is proposed to be added providing for secured creditors retaining their security in respect of the amounts due to them, although they may have agreed to a settlement.

The other amendments are of a minor character.

Bill to amend the Mysore Debt Conciliation Act, 1937.

WHEREAS it is expedient to amend the Mysore Debt Conciliation Act, 1937 ; It is hereby enacted as follows :—

1. This Act may be called the Mysore Debt Conciliation (amendment) Act, 194 .

2. In clause (*e*) of section 2 of the Mysore Debt Conciliation Act, 1937 (hereinafter referred to as the said Act), the following words shall be added after the figure "1888," namely :—

"or any liability in respect of maintenance, whether under decree of Court or otherwise,"

3. In section 3 of the said Act, sub-sections (4) and (5) shall be re-numbered as sub-sections (5) and (6), respectively, and after sub-section (3), the following sub-section shall be inserted, namely:— Amendment of section 3, Act VI of 1937.

"(4) A Board having the prescribed quorum may act notwithstanding any vacancy through death, resignation or removal in the number of its members other than the Chairman."

4. After section 4 of the said Act, the following section shall be inserted, namely:— Insertion of new section 4-A in Act VI of 1937.

"4-A. If a debtor within the meaning of this Act is jointly liable with other persons for a debt, such debtor may make an application under sub-section (1) of section 4 for relief in respect of his liability in regard to such debt, and the Board, after consideration of the facts and circumstances of the case may pass such orders as it thinks fit under this Act regarding the debt so far as such applicant is concerned and such orders of the Board shall not be questioned in any Civil Court: Application for settlement of joint debts.

Provided that an order of the Board under this sub-section shall not affect the liability of any other person who is jointly liable with the debtor for the debt, but in no case shall the creditor to whom the debt is due be entitled to realise more than his dues from the persons jointly liable."

5. (1) In clause (*b*) of section 9 of the said Act, the following proviso shall be inserted at the end, namely:— Amendment of section 9, Act VI of 1937.

"Provided further that if the Board dismisses such application on the failure of the debtor to comply with notices under sub-section (3) of section 8, the Board may allow against the debtor such costs as the Board considers reasonable and such costs shall be recoverable as a revenue demand on application made, within ninety days, by a creditor to whom the same is due."

(2) Section 9 of the said Act shall be re-numbered as sub-section (1) of section 9 and after the said sub-section, the following sub-section shall be inserted, namely:—

"(2) The Board shall dismiss the application made under sub-section (1) of section 4 if it is satisfied that the debtor has within 180 days previous to the date of the application made by him transferred any of his property with intent to defraud any creditor."

Insertion of new section 9-A, in Act VI of 1937.

6. After section 9 of the said Act, the following section shall be inserted, namely :—

"9-A. If once an application has been made by a debtor and disposed of, no Board shall entertain a second application within two years of the date of disposal of the first application."

Amendment of section 14, Act VI of 1937.

7. In section 14 of the said Act,—

(1) the second proviso to sub-section (1) shall be omitted;

(2) sub-sections (2), (3) and (4) shall be re-numbered as sub-sections (3), (4) and (5), respectively, and after sub-section (1), the following sub-section shall be inserted, namely :—

"(2) When creditors to whom more than 50 per cent of the total debt is owing, agree to an amicable settlement with the debtor, the Board, if it considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement is a fair offer which the creditor concerned ought reasonably to accept, may pass an order that the debt to which the offer relates shall be settled in accordance with such offer:

Provided that for the purpose of this sub-section an offer shall not be considered by the Board to be a fair offer if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description;"

(3) in sub-section (3) as re-numbered, after the figure and brackets, "(1)", the following words, figure and brackets shall be inserted, namely :—

"or an order passed under sub-section (2)"; and

(4) the following sub-section shall be inserted at the end, namely :—

"(6) When a secured creditor does not agree to the settlement under sub-section (1) and in cases governed by sub-section (2) such refusal is not considered unfair by the Board when passing an order, such settlement or order shall not affect his rights to proceed against the secured property."

Insertion of new section 14-A in Act VI of 1937.

8. After section 14 of the said Act, the following section shall be inserted, namely :—

"14-A. When an agreement or an order registered under sub-section (3) of section 14 relates to a debt which

is secured by a mortgage, lien or charge on any immovable property of a debtor, such mortgage, lien or charge shall subsist to the extent of the amount payable to the creditor in respect of such debt in accordance with the terms of the agreement or the order, until such amount has been paid or the property has been sold for the satisfaction of such debt."

Insertion of new sections 18-A to 18-D in Act VI of 1937.

9. After section 18 of the said Act, the following sections shall be inserted, namely :—

Power to deposit amount of instalment with the Deputy Commissioner.

"18-A. (1) If a creditor refuses to accept any amount tendered to him by his debtor in accordance with the terms of an agreement or order registered under the provisions of this Act, or if, in any case, the debtor is doubtful as to the person entitled to receive such amount, the debtor may apply to the Deputy Commissioner for permission to deposit such amount with him.

(2) An application made under sub-section (1) shall be in writing and shall contain—

(*a*) a statement of the grounds on which it has been made,

(*b*) the name of the creditor to whose credit the deposit is to be entered, and

(*c*) the name of the person to whom payment was last made and of the person now claiming it.

18-B. (1) If it appears to the Deputy Commissioner that the applicant is entitled to make the deposit under section 18-A, he shall receive such deposit and give a receipt therefor.

(2) The Deputy Commissioner shall cause a notice of such deposit to be served on every person who, he pay reason to believe, claims or is entitled to it and may has the amount thereof to any person appearing to him to be entitled to it, or may retain it pending the decision of a Civil Court as to the person entitled to it.

Debtor to be deemed to have fulfilled terms of agreement.

18-C. A debtor who has made a deposit under section 18-B shall be held to have fulfilled the terms of the agreement or the order.

18-D. No suit or other legal proceeding shall be instituted against any officer in respect of anything done regarding a deposit under this Act, but nothing in this section shall prevent any person entitled to recover the amount of such deposit from recovering it from any person to whom it has been paid under section 18-B."

Bar of suits and other legal proceedings.

Amendment of section 19, Act VI of 1937.

10. In sub-section (1) of section 19 of the said Act, the word "and" at the end of clause (v) shall be omitted and after clause (vi), the following word and clause shall be added, namely :—

" and

(vii) the repaying capacity of the debtor."

A Bill to amend the Madras Debt Conciliation Act 1936.

WHEREAS it is expedient to amend the Madras Debt Conciliation Act, 1936, for the purpose hereinafter appearing, it is enacted as follows:

Short title

1. This Act may be called the Madras Debt Conciliation (Amendment) Act, 1943.

Amendment of section 14 Madras Act XI of 1936.

2. For sub-section (3) of section 14 of the Madras Debt Conciliation Act, 1936 (Madras Act XI of 1936) the following sub-section shall be substituted, namely:-

"(3)(a) Notwithstanding anything contained in the Indian Registration Act, 1908, it shall not be necessary for the Chairman or any member of the board or any party who has signed or otherwise authenticated the agreement referred to in sub-section (1), to appear in person or by agent at any registration office in any proceeding connected with the registration of such agreement, or to sign as provided in section 58 of that Act.

(b) The registering ~~exx~~ officer to whom any such agreement is sent for registration may, if he thinks fit, refer to t the chairman of the board or to any other person for information respecting the same, and on being satisfied of the execution thereof, shall register the agreement."

STATEMENT OF OBJECTS AND REASONS.

Section 14 of the Madras Debt Conciliation Act, 1936 (Madras Act XI of 1936) provides that where the creditors come to an amicable settlement with the debtor, such settlement should forthwith be reduced to writing in the form of an agreement, and registered under the Indian Registration Act, 1908, within thirty days from the date of the making of the agreement. Upon such registration, the agreement takes ~~agzast~~ effect as if it were a decree of a

a Civil Court and is executable as such. The chairman of the board is exempted from appearing before the registering officer in connexion with the registration of the agreement (sub-section (3) of section 14 aforesaid read with section 88 of the Registration Act). But neither the other members of the board who may have signed the agreement, nor the debtor and the creditors who are parties thereto, are so exempted. Difficulties are often experienced in securing the presence of the parties before the registering officer within the period of thirty days mentioned in section 14, with the result that the time and trouble taken by the board in effecting the agreement are wasted. The object of this Bill is to dispense with the attendance of the parties to the agreement before the registering officer, and thereby to ensure its registration within the time-limit of thirty days fixed by the Act.

(By order of His Excellency the Governor)

P. APPU NAIR,

Secretary to Government, Legal Department.

Remarks.

I agree. Persuasion has its limits and it appears that it is necessary to supplement it by legislation to the extent possible.

-do-

This is not only desirable but absolutely necessary if there is to be effective conciliation and settlement. Otherwise paper settlement will be arrived at without any real and lasting benefit to any party. We must benefit by the experience of the Central Provinces where debts of Agriculturists were scaled down to something in the neighbourhood of 8 crores of rupees but no relief could be given. And unless there is close coordination between the Land Mortgage Bank and the Conciliation Board payment cannot be secured.

Even with the present margin of 50%, there have been defaults. In the interests of the successful working of the Land Mortgage scheme, the increase of the loan amounts to anything more than 50% of the value of the mortgaged land is not desirable.

The present minimum limit of Rs.300/- is adequate. Any further lowering of the limit is not desirable. There are ordinary Co-operative Societies which could deal with loans for less than Rs.300/-.

The larger the amount of the loan the greater is the risk involved. Moreover the principle to be kept in view is the greatest good of the greatest number. A larg number of small loans is certainly better than a small number of large loans. The Land Mortgage Scheme is primarily meant for the benefit of the middle class agriculturists and not the Zemandari classes.

The principle to be adopted should be the other way about. Wherever Land Mortgage Banks are opened, Debt Conciliation Boards should be formed and there should be close coordination between them. The best way of securing coordination between the two agencies is by the appointment of a Director of the Land Mortgage Society as a member of the Debt Conciliation Board. The Debt Conciliation Board must have the power of co-opting the Assistant Registrar of Co-operative Societies of the Division also in necessary cases.

Yes. Scientific agriculture should be popularised by demonstration. Subsidiary occupations should be introduced and developed.

Serial No. of Recommendation.	Remarks.
11.	This is neither necessary nor desirable. The Revenue Agency is the best agency. The Sub-Division Officers should continue as Chairmen of the Boards. They have adequate leisure to attend to this work.
12.	The strength of the Board need not be increased but the Board should have the power of co-opting additional members in necessary cases.
13.	I agree.
14.	I agree.
15.	This is desirable ~~and~~ but exceedingly difficult.
16.	I agree.
17.	I agree.
18.	I agree.
19.	I agree. This is very necessary.
20.	I agree.
21.	I agree.
22.	I agree.
23.	I agree.
24.	I do not agree to this proposal. It is stated that "opinion was fairly unanimous that the co-operative societies as at present worked did not deserve this preferential treatment" and that "they are charging high rate of interest, a higher penal rate in case of default and that they are also recovering advance interest". I am afraid that the opinion that has been collected by the Special Officer is from money lenders whose interests clash with that of co-operative societies. The high rate of interest is a thing of the past. The penal rate charged is only one

Serial No. of Recommendation.	Remarks.
	per cent higher than the ordinary rate and this higher rate is charged on the amount in default and not the entire loan. Advance interest is recovered only for one month. The judgment of the High Court quoted by the Special Officer relates to a transaction of the Bangalore Central Co-operative Bank some 15 years back. The existing proviso is all right and no amendment is called for.
25.	I agree.
26.	I agree.
27.	I agree.
28.	I agree.
29.	It is very necessary that the appearance of legal practitioners should be restricted. I would go a step further and prohibit their appearance as in the case of co-operative societies disputes before the Officers of the Co-operative Department.
30.	I have no objection but since the settlement in the case of debts of co-operative societies is subject to the proviso (1)to Section 14, the necessity for this is not apparent.
31.	May be added.
32.	I agree.
33.	I agree.

Registrar

Amendments to the Debt Conci[illegible] Act, consequential ~~to~~ or the orders p[illegible]sed in Government Order No. R. 7219-68 / LR.323-40-42 Date[illegible] 24.4.71

In Section 2 Clause (E) the following words shall be inserted before the word "or" in line 7 -- "any liability in respect of maintenance whether under decree of court or otherwise".

The following shall be added as a Proviso to Section 3 Clause (3) of the Act: "Provided that a Board having a quorum may act notwithstanding any vacancy in the -- number of members other than the Chairman".

The following shall be added as Section 4(A) (1): "An application may be made under Sub-section (1) of Section 4 for the -- settlement of ---

(a) an ancestral debt for which two or more persons are jointly liable if one of such persons is a debtor within the meaning of this act, and they all join in making such application, or

(b) a debt for which two or more -- persons are jointly liable if all such -- persons are debtors within the meaning of this act, and they all join in making such application,

and the Board may pass orders under this Act regarding any debt for which such application relates".

(2) If a debtor within the meaning of this Act is jointly liable with other persons for any debt other than a debt for -- arrears of rent, such debtor may make an application under Sub-section (1) of Section 4 for relief in respect of his liability in

in regard to such debt, and the Board after consideration of the facts and circumstances of the case, may pass such orders as it thinks fit under this Act regarding the debt so far as such applicant is concerned and such order of the Board shall not be questioned in any Civil Court; provided that an order of the Board under this Sub-section shall not affect the liability of any other person who is jointly liable with the debtor for the debt but in no case shall the creditor to whom the debt is due be entitled to ~~release~~ realise more than his dues from the persons jointly liable.

(a) The following shall be added as the second proviso to Clause (b) of Section 9: "~~and~~ provided further that if the Board -- dismisses ~~the~~ said application on the failure of the debtor to comply with notices under Sub-sections (2) and (3) of Section 8, the Board may allow against such debtor such costs as the Board considers reasonable and such costs shall be recoverable as a revenue demand on application made within ninety days by a -- creditor to whom the same is due".

(b) The following shall be added as Clause (2) of Section 9, the existing Clause being numbered as Clause (1) :

The Board shall dismiss the application if it is satisfied that the debtor has within 180 days previous to the date of the application made by him under Section 4 transferred any of his property with intent to defraud any creditor.

The following shall be added as Section Section 9 (A):-

"If once an application has been made by the debtor and disposed of, no Board shall entertain a second application within two years of the date of disposal of the first application.

(1) The Second Proviso of Section 14 (1) shall be omitted. in the form.—

(2) The following shall be added as Clause 2, of Sec. 14 renumbering the other existing Clauses of the Section suitably:

"When creditors to whom more than 50 per cent of the total debt is owing, agree to an amicable settlement with the debtor, the Board, if it considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement is a fair offer which the creditor concerned ought -- reasonably to accept, may pass an order that the debt to which the offer relates shall be -- settled in accordance with such offer; provided that for the purpose of this Clause an offer shall not be considered by the board to be a offer.

If its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description.

The following Section shall be added as Section 14(A):

14(A) When an agreement registered under Sub-section (3) of Section 14 or an order passed under Sub-section (2), relates to a debt which is secured by a mortgage, lien or charge on any immovable property of a debtor, such mortgage, lien or charge shall subsist to the extent of the amount payable to the creditor in respect of such debt in accordance with the terms of the agreement or the order, until such amount has been paid or the property has been sold for

8. The following shall be added as Sections 18(A) to 18(D):

"18-A. (1) If a creditor refuses to accept any amount tendered to him by his debtor in accordance with the terms of an agreement -- registered under the -- provision of this Act, or if, in any case, the -- debtor is doubtful as to the person entitled to receive such amount, the debtor may apply to the Deputy Commissioner for permission to deposit such amount with him.

Power to deposit amount of instalment with the Deputy Commissioner.

(2) An application made under sub-section (1) shall be in writing and shall contain:-

(a) a statement of the grounds on which it has been made,

(b) the name of the creditor to whose credit the deposit is to be entered, and

(c) the name of the person to whom payment was last made and of the person now claiming it.

18(B). (1) If it appears to the Deputy Commissioner that the applicant is entitled to make the deposit under section 18-A, he shall receive such deposit and give a receipt therefor.

Grant of receipt for deposit.

(2) The Deputy Commissioner shall cause a notice of such deposit to be served on every person who, he has reason to believe, claims or is entitled to it and may pay the amount thereof to any person appearing to him to be entitled to it, or may retain it pending the decision of a civil court as to the person entitled to it.

payment of deposit.

Debtor to be deemed to have fulfilled

18-C. A debtor who

terms of agreement.

who has made a deposit under section 18-B shall be held to have fulfilled the terms of the agreement.

18-D. No suit or other legal proceedings shall be instituted against any office:

Bar of suits and other legal proceedings.

in respect of anything done regarding a deposit under this Act, but nothing in this section shall prevent any person entitled to recover the amount of such deposit from recovering it from any person to whom it has been paid under section 18-B.

The following shall be added as item (vi) in the second paragraph of section 19 -- clause 1, the existing item (vi) being numbered (vii) ~~capacity of the debtor.~~

(vi) the repaying capacity of the debtor.

A rule must be added that the Cost of issuing notices under sections 8(2) and 10(2) shall be recoverable from the applicants in advance.

The rules be amended by empowering the Board to issue warrants or proclamations to enforce the attendance of defaulting parties and witnesses and to exercise the following powers under order 16 of the C.P.C. 1911 [subject to the prior sanction of the D.C.]

(a) to issue warrants of arrest;
(b) proclamation and attachment of property;
(c) the imposition of fines (Compare Rule 49 of the Bengal Agricultural Debtors Rules).

Rules under Section 14(2) may be framed on the analogy of Rule 103 of the Bengal Agricultural Debtors Rules

Stamp duty recovarable on the agreements of settlement of debts may [ten annas and not] depend on the value of the subject matter of the agreement.

A Complete adoption of Conciliation is not immediately necessary or advisable but the element of Conciliation already contained in the Act (Secs 16, 19, 20) should however, be strengthened, without coming in conflict with the principle of Conciliation as voluntary basis.

Judges of the High Court, Dcs & district officers.

agree to these proposals.

no objection

MK
1.2.41

NM

irman of the Debt Conciliation Board

. and the D.C., Hassan district

e'commend that the levy of

tion fees on the agreements sent

tration may ~~be waived~~ be waived

The agreements may be examined as before.

NM

is generally agreed to.

no objection

MK
1/2

NM

Plan	Section	Recommendations of the Special Officer.
16		Arrangements for the immediate payment of settled debts is highly desirable. Payment of settled debts should be arranged through the Land Mortgage Banks and Cooperative societies.
17		The maximum limit upto which loans may be granted by the Land Mortgage banks may be raised from 50% to 70% of the market value of the security.
18		The minimum ~~limit~~ amount for loans to be granted by the Land Mortgage Banks should be lowered to Rs 100. (the present lower limit is Rs 300/-)
8		The upper limit of Rs 5000/- should be raised to in deserving cases where adequate security is forth-coming
19		Land Mortgage Banks should be opened in all places where the Debt Conciliation Boards are established.
19		The work of the L. M. Banks and Debt Conciliation Boards should be Coordinated.
22.		Judicial officers may be tried as chairmen of the Debt Conciliation Boards in some places.

inions of Several Officers	Remarks.
This is generally agreed to.	No orders are necessary MS NM
ree Judges of the High Court are of ion that these suggestions are impracticable. Registrar of Co-operative Societies is not in vour of this proposal.	There is a matter for the L. M. Bank. MS No orders called for MS
Registrar of Co-operative Societies Considers not desirable. Ordinary Co-operative Societies deal with loans of less than Rs 300.	— Not necessary MS MS
Registrar is not in favour of this. In opinion it is desirable to give relief greater number of borrowers of smaller	The Bank may relax the limit in particular cases. No orders required MS MS
Registrar agrees with these two proposals suggests that the Director of B. M. Bank. be appointed as a member of the Board, ver Dist Co-op Banks should have power of Co-opting the Asst. Registrar Co-operative Societies of the Division as ber of the Board.	There is Decentralisation. MS
iew has been generally opposed Dy. Commrs. and the Rev. Commr. lso by a few judges of the High The reason for their holding iew is that the executive officers kely to be better able to influence litors than judicial officers. The	A limit may perhaps be made by appointing Dist. officers in some Boards. There is a question of cost. MS Hon. Shri Ketkar Revenue Member may be approached for Several Boards in a District with the volume of work justifies only.

Recommendations of the Special officer.

is not necessary to increase the strength of the Board

is not necessary to amend the definition of 'debtor' limiting the scope of the Act to farm agriculturists on

debtor need be excluded from the operation of the Act on account of his pecuniary status or his being heavily debted.

Section 3 to be amended by adding a saving clause enabling the Board to function notwithstanding vacancies due to death, resignation or removal.

The following debts to be excluded from the definition debt in the Act:—

(i) Claim for maintenance either under a decree of Court or otherwise;

(ii) Toll, cess or payment due to Municipality, Panchayat or other local authority.

The Board may be empowered to order costs when dismissing a petition for failure of a debtor to comply with or to furnish particulars

pinions of the Judges of the
l other officers,

Chief Judge, however, Considers that the Government
ld Consider a few experienced men with as
l time Chairmen of Conciliation Boards might
be tried as they are likely to be very successful
airmen. He is also of the view that a seconded
ff should be appointed Chairman of several
ds in order that he might be fully employ

All are practically agreeable to this. Yes

MM ✓

is is generally agreed to. Yes all.

MM ✓

pinion is generally unanimous
l irrespective of pecuniary status of
debtors, all should be eligible to
e within the purview of the Act.

unanimous

MM

✓

ll are agreeable to this addition. Yes

MM

Practically all agree except Mr. Abdul
hani who Considers that taxes, cesses etc
ue to a Municipal Council or village
ncharyat need not be excluded.

unanimous

MM I agree with
Qureshi Abdul Ghani

MM

All agree to this recommendation. Yes

para	Section	Recommendations of the Special officer.	
		under section 8(3) and for this purpose a provision similar to section 13(3) of the Bengal Agricultural Debtors Act may be introduced.	
32 33		A provision to be made in the Act placing a bar on the right of a debtor to file successive applications as in the case of the Punjab Debt Relief Act limiting the period to one year. (Section 19 of the Bengal Act runs as follows:- "If once an application has been made by a debtor and disposed of, no Board shall entertain a second application within two years of the date of disposal of the first app[n]."	All appl... and ... him f...
	9	Section 9 to be amended by the addition of a clause making an application liable to be dismissed if the Board is satisfied that an alienation by the debtor within 180 days before filing the petition was made with a view to defraud the Creditors.	All appl... clause ... even in... If the ... two yea... to the A...
	14	Section 14 to be amended by permitting the existing mortgage, lien or charge to subsist when a secured creditor agrees to a settlement. A provision similar to Sec. 12-A of the Central Provinces Debt Conciliation Act to be incorporated in our Act.	
		Second proviso to section 14 also to be suitably amended.	

s the suggestion of the learned Advocate
in favour of persons preventing
n applying again for two years.

marked

to the addition of the proposed
Mr. Subrahmanya Iyer in
avour of dismissing the applications
nations were made within
before the date of the applications
ds.

marked

n to the proposed amendments.

marked

37 38 39	14	First proviso to section 14 to be omitted and power taken by Govt to exempt such societies as in their opinion deserve the preferential treatment.	On R proposa of the of rep
40	17	It is not necessary to extend the period of one year prescribed in section 17 of the Act.	All
41	18	~~Section~~ Act 18 to be amended by making provision for deposit of the amount by the debtors and a provision to be ~~incorporated~~ incorporated into section 18 of the Act Corresponding to the provisions under Section 13-A to 13-D of the Central Provinces and Berar Act.	
12	19	A specific clause to be added to section 19 of the Act that the repaying Capacity of the debtor should also be taken into Consideration.	All
43	23	Right of revision against Certain orders of the Debt Conciliation Boards may be allowed	Orders judges favour by the liabi Court Debt Co
44	25	Section 25 of the Act should be suitably amended so as to restrict the appearance of legal practioners before the Board	Here do be

and the Reg. Commrs agree to this

while the Registrar and the judges of the Court are strongly in favour of retaining the existing provision.

no change is in my recommendation

MMS

JMS

actically agree to this.

Yes

MMS JMS

agree.

Yes

MMS

JMS

agree to this addition.

a right should be included

MMS

JMS

and the D.C.s agree but the High Court are strongly in favour of the opinion previously held by High Court (before passing of the Debt Collection Act) that no right to apply to any revision of the proceedings of a Conciliation Board should be allowed.

no revision need be provided for

JMS

Chief justice is of opinion that there appear to be sufficient reasons for retaining with the existing provisions

the existing provision may continue

MMS JMS

		in the opinio from Registr latter
26.	Section 26 to be amended by providing for stay of proceedings before the Revenue Courts and the Registrar of Cooperative societies.	All first are propo
26.	An explanation to be added to section 26 that execution proceedings should be deemed to be pending until the sale becomes absolute.	All Justice as the again execut shares of C. P. sale
	The Boards to have power to Conciliate joint debts even when only one of the debtors files an application before the Board.	
	In Cases where the debts are far in excess of the assets of the debtor, the Board should refer the debtor to the Insolvency Courts	All a Offic receiv should

-, while three other judges are of the
that lawyers may be excluded
earing before the Boards. One
of Co-operative Societies is also of the
ew. The R. C and the Dy. Commr
. the Special Officer.

e to this proposal except the Chief
and S. Venkatranga Iyengar who
~~is not~~ of the view that the
amendment is unnecessary.

to this proposal. But the Chief
strongly opposed to this proposal
ould be an additional weapon
a decree-holder when he tries to
e decrees. Mr. Singaravelu Mudaliar
even under order XXI, rules 89 to 91
proceedings are stayed even after

gree to this.

The Chief Justice's views may be accepted

MMS

MM

Yes

MM

MM

e except the Chief Justice and
dges who do not ~~think~~ Consider it
ny that Debt Conciliation Boards
have power to force a debtor
to whom a Court

Not necessary

MM

The Mysore Debt Conciliation Act was passed in 1937 as a result of the recommendation of the Committee appointed by Government in 1934 to consider measures of relief to agriculturists. The scheme of Conciliation envisaged by the Act was introduced in 6 Taluks from 1st July 1938. From the reports of the working of the scheme and from representations made in the Representative Assembly and the Legislative Council Government found that the results are not satisfactory and accordingly appointed Mr. B.K. Ramakrishnaiya to examine the working of the scheme in all its aspects and submit a report to Government indicating the defects, if any, and suggesting lines of improvement. The report was received by Government in March 1940 and was published. Suggestions from the public were also invited.

After considering the report, and the views of the High Court and certain officers of Government, Government passed orders thereon indicating the lines on which the Act would, with advantage, be improved so as to conduce to better results in the working of the scheme.

The present Bill is intended to implement these orders of Government and to put them on a statutory footing.

The more important changes intended to be effected by the Bill are the following:-

Clause 2 of the Bill is intended to take out of the purview of the Act, claims for maintenance. Under section 3, whenever a vacancy occurs consequent on the death or resignation of a member, the Board cannot function. Clause 3 provides that once a Board is validly constituted as long as a Board has a necessary quorum, it may function notwithstanding any vacancy among its members other than the Chairman. (Similar provisions are found in the Bombay and C.P. Acts on

this subject).

It has been considered necessary that Boards should be invested with the power to deal with joint debts also even when an application is filed by only one joint debtor. There is no such power available under the Act at present. Clause 4 is intended to govern such cases. (Bombay & Bengal Acts have such a provision.)

It has been urged that the Act is one sided and all against the Creditor. There is no penalty attached to defaults on the part of a debtor. Provision is therefore proposed to be made empowering a Board to allow costs against the debtor for failing to furnish particulars under 8 (3), or to comply with a notice under 8 (2), such costs being recoverable as arrears of land revenue. Clause 5 provides for this. (Bengal Act has similar provision). The same clause also provides that any alienation of property by a Debtor within 180 days prior to his petition will entail the dismissal of the petition. (Bengal Act has similar provision).

A new clause is sought to be added by clause 6 imposing a limitation on the number of applications that a debtor may file. This is intended to make him take greater interest and not file a petition merely to stop proceedings in a Civil Court. (Punjab Act has a similar proviso ~~but the period is 2 years whereas it is 1 year in our Bill~~).

There has been a growing feeling that the failure of the Act is in great measure due to the want of a sufficient element of compulsion. Clause 7 therefore provides that where 50 % of the Creditors agree to a settlement, the Court may impose on the others any offer made by the debtor which it considers fair. (Is in force in Bengal).// Under the Act the secured creditor's rights against the secured property is lost if he enters into an agreement. ~~In introducing the element of compulsion referred to above~~ with a view to safeguard the interest of a Secured Creditor, it is considered

desirable that the Creditor should retain his lien until his debt is extinguished. Provision is made for this by clause 8.

In order to provide for cases where a creditor refuse to accept any amount or is dead and his heirs are not kno clause 9 provides for deposing the amount with th Commissioner(C.P. Act has similar provision).

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1) The work of Conciliation is very poor and does not deal with the problem fully.
2) The Boards have done well in the C.P.
3) The Act proposed to introduce Debt-Relief Act.
4) Compulsion is essential. Conciliation shd make room for Compulsion. Vide Cochin, Travancore, Madras, Bombay & Mr Malviya

5) ~~I~~

1) The Act has been in force in only a few Centres & the argument that it has failed is not correct.
2) Rob Peel & Mr Paul.

Mr Chandrasekhariya

Mr C. Reddy's amendment is a Settlement of debts. This is a totally different legislation.

Mr Ramaiah

The Govt. are trying to relieve the indebtedness of the ryot.
Conciliation is to be forced with by some Statute Compulsion.

Mr Shankar Bajpai for de